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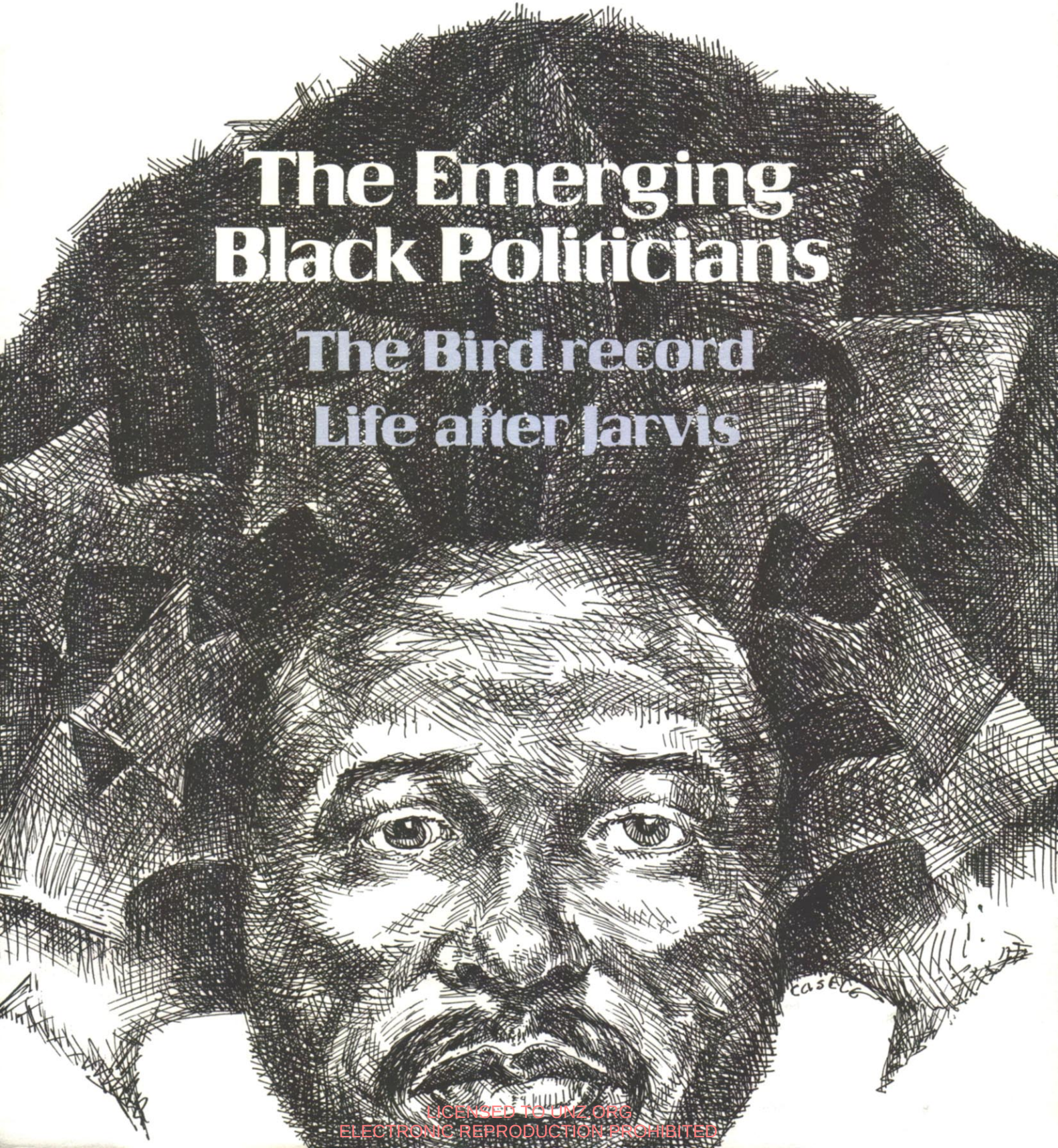
California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS



The Emerging Black Politicians

The Bird record

Life after Jarvis

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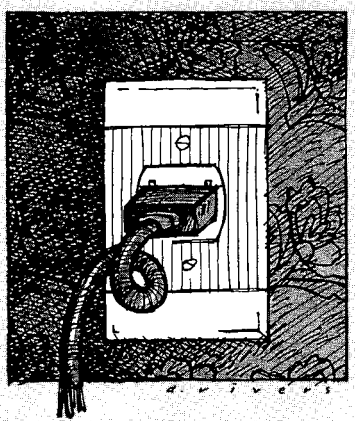
Personal
PERSPECTIVE

By Ed Salzman



A voluntary requirement

They tell a story about the time when Jerry Brown was a seminarian and it was decided by the fathers who ran the Novitiate that Brown and his colleagues would voluntarily give up coffee during Lent. The first day of Lent arrived, and the coffee pot was empty. To the consternation of his teachers, Brown requested coffee. He offered the simple and logical explanation that the sacrifice of coffee would be voluntary only if it were made available.

It is thus ironic that a commission appointed by Brown, the controversial State Energy Commission, may soon hand down a mandatory policy in the guise of voluntary action. At issue is a commission staff report, now being subjected to hearings, calling for the establishment of "loan management standards" for electricity users in the state. These standards are designed to reduce the consumption of energy during peak hours, thus cutting back the anticipated future construction of new power plants.

This would be accomplished by several means, but for the residential customer it would mean shutting down certain appliances, such as air conditioners, on a cycle basis — perhaps 20 minutes each hour. An instrument would be placed in each home to regulate the use of these appliances. No one would suffer because most appliances would work for most of the day, although there could be some incovenience to those who were not familiar with the on-off patterns. The cost of the gadgets would be paid by the consumers through their electricity bills over a period of time.

The commission staff claims that participation would be strictly voluntary. Says the proposal: "No one — not the utility, nor the state, nor 'Big Brother' — is going to turn off your air conditioner, even briefly, on the hottest day of the year, unless you yourself have agreed to such a shut-off . . . The utility will do its very best to persuade you to accept a remote load switch. If the arguments don't make sense to you, say 'No'."

But that's only half the story. The report also recommends that utilities be required to sign up 80 percent of their customers for load switches. If the utilities fail, they are subject to commission sanctions — denial of certification for new plants, possible reduction in rate of return, and postponement of pending rate increases. In other words, the commission would be forcing the utility to coerce its customers into saying yes while giving consumers an economic reason (lower rates) for saying no. This proposal would induce the utilities to employ every ounce of muscle and tidbit of chicanery at their command to get Californians to volunteer for the program.

This is a classic case of government buck-passing. If the Energy Commission wants to mandate load switches, it ought to have the guts to do so without putting the utilities in an impossible position. And if the commission wants to make the electrical-use restriction optional (which apparently is not the case), it should learn the definition of the word "voluntary" from a former seminarian named Brown.

California Journal

THE MONTHLY ANALYSIS
OF STATE GOVERNMENT AND POLITICS

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The wizards of Wilshire are saying that campaign managers Jack McDowell and Dick Woodward landed the biggest plum of the year — the campaign to defeat the anti-smoking initiative on the November ballot. The word is out that the tobacco industry is prepared to spend $5 million to defeat the measure.

How's this for a comeback? In November of 1976, the *California Republican Assembly News* reported: "Jimmie Ware, California's Happiest Warrior in the Republican ranks, was killed June 2nd in an automobile accident." The Happiest Warrior now happens to be the GOP nominee for state controller.

No longer will you hear California business interests press for a repeal of the property tax on inventories. Proposition 13 cut the tax down to about $200 million a year -- far less than the $450 million in bank and corporation taxes that would have been paid for a complete elimination of the levy under pre-13 legislation. And that doesn't take into account the tax relief business firms get on their real estate.

For the record: Last month, we rated Assemblymen David Stirling and Herschel Rosenthal as safe bets for reelection. But the parties were reversed. Stirling is a Republican, Rosenthal a Democrat.

Under the federal election law, some candidates are in better financial shape if they lose than if they win. That is because leftover campaign funds of the loser can be spent for any legal purpose — a trip to Tahiti, for example — while those of the winner are restricted by congressional ethics codes. Among the "winning" losers: John Tunney, who reported a $47,000 surplus from his 1976 campaign.

Pollster of the year: Jack W. Bentley of Western View-Point Research in Long Beach. His predictions in the June GOP gubernatorial primary: Younger 41; Davis, 28; Maddy 19; Wilson, 11. The actual result: Younger, 40; Davis, 29; Maddy, 19; Wilson, 9. His margin of error was one percentage point per candidate.

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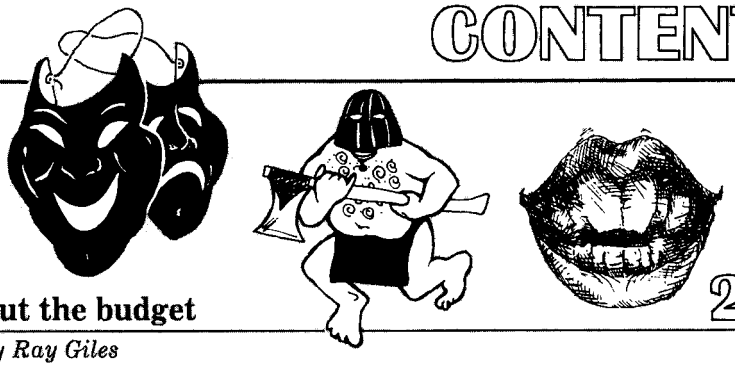

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CUT THE BUDGET

THE BUREAUCRATS' PROP. 13 GAME

By RAY GILES

Have you ever wondered what it would be like to be one of those "bureaucrats" you're always reading about in the "Letters to the Editor" section of the local newspaper?

Besides being fat, you'd also probably possess an insatiable appetite for personal power, a lust for mismanagement and, following the June 6th election, a psychopathic need to punish the public for passing Proposition 13.

A sorry lot? Maybe. But maybe not.

Why not find out for yourself what these high-on-the-hog-at-the-public-trough bureaucrats are going through in this new Jarvis-Gann era of limitations?

To do just that, we invite you to play **"CUT THE BUDGET:** The Bureaucrats' Prop. 13 Game."

"CUT THE BUDGET" is guaranteed to give you, your friends and family a real feel for how those Tartars of the taxpayers' dollars are faring these days as they attempt to trim and tighten their budgets without cutting their professional throats.

Before starting, read the **Rules of the Game** in the upper right hand corner.

Good luck, and may the best bureaucrat win!

The Game Board

SQUARE 1 **START.** Players begin here and move clockwise around the board according to the number shown on the roll of their die. Bureaucrats collect $2 million each time they pass START.

SQUARE 2 **"NOT ME!"** Land here and take one "Not Me!" card. Each "Not Me!" card lists a different segment of California's public employee "family": school teachers, judges, social welfare workers, etc. Prior to the start of the game, each group has held a rally on the steps of the Capitol to proclaim the mandate of Proposition 13 was not to lay *them* off. If the card selected is an employee group under the bureaucrat's jurisdiction, player receives $1 million toward meeting the payroll of this group and cuts his budget deficit accordingly. If the group is under an opponent's jurisdiction, the opposing bureaucrat must lay off half the group indicated, add $500,000 to his deficit in unemployment costs for these workers and receive one "insensitive bureaucrat" point.

SQUARE 3 **MEET PAUL GANN.** Bureaucrat loses one turn trying to figure out who the hell Paul Gann is.

SQUARE 4 **THE RESERVES OF SAN FRANCISCO.** Quite unexpectedly, bureaucrat has suddenly discovered additional reserves within the dark recesses of his agency's budget. Roll die once to determine exact amount uncovered (in half-millions). Next, apply these funds toward deficit and fire one clerk in the finance department for keeping this "important and welcomed" information hidden from the voters prior to June 6th.

SQUARE 5 **MEET YOUR LEGISLATOR.** A good ploy to stall for time if your opponents (or you) are in threat of being "axed." Lose turn while legislator assures you he'll let you know what he knows of the "current situation" as soon as his legislative assistant decides to tell him.

SQUARE 6 **"HERE COMES THE HATCHET MAN!"** Roll die to determine how much (in half-millions) you must hatchet from budget in jobs. A one, two or three gets you one "insensitive bureaucrat" point while a four, five or six also gets you one "insensitive bureaucrat" point. (What, you expected to be cheered?)

SQUARE 7 **GOVERNOR BROWN TAKES A POSITION.** Land here and advance clockwise around board once and then counterclockwise around board again. This is your position, and the Governor's, until your next turn.

SQUARE 8 **MEET WITH UNION LEADERS.** It's promise-them-the-moon or tell-them-to-shove-it time. Bureaucrat rolls die. If odd number, bureaucrat promises union leaders the moon and receives one "human compassion" point. If number is even, player tells union leaders to "shove it" and receives one "insensitive bureaucrat" point but lots of admiring glances from other bureaucrats in the game.

SQUARE 9 **THE COURTHOUSE.** Bureaucrat who lands here must roll a one or six to get out of court and avoid costly legal hassles. If on the third try bureaucrat is still not out, player adds $500,000 in attorney's fees to budget deficit and advances the number of steps shown on die.

SQUARE 10 **LETTERS TO THE EDITOR.** Take one "Letters to the Editor" card. Each card has a taxpayer's suggestion for saving money and the amount the player may subtract from deficit as a result of that savings. Sample suggestions: "Fire all lefthanded teachers! Save $500,000." "Use prison labor to run summer recreation programs! Save $1 million." "Make all Mexican aliens arrested in California walk home! Save $1.5 million."

SQUARE 11 **STRIKE!** Empl
die twice. First r
much (in half-milli
aries and fringe b
of strike. Second roll is to de
quickly employees come bac
hours). Player penalized one "i
bureaucrat" point if first roll
and second a 1.

SQUARE 12 **UPDATE RESUME** Player advances to **"PLANNING SESSION"** and studies his options.

SQUARE 13 **MEET HOWARD JARVIS.** Advance to START and collect $2 million. You deserve it!

SQUARE 14 **SYMBOLIC A**
Bureaucrat volu
duces personal
$50,000 to $47,
player receives one "human
and several nasty looks from

SQUARE 15 **PLANNING SE**
bureaucrats. A p
square can stay
as long as it take

SQUARE 16 **INJUNCTION**
Do not pass STA
Do not collect

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Rules of the Game

1: Two to five persons may play. Players are called "bureaucrats." **2:** Each bureaucrat selects a marker. The markers are five human-like plastic figures representing a state agency official, a city manager, one school superintendent, a county administrator and a special district director. **3:** All bureaucrats have one die. **4:** The object of the game is for bureaucrats to cut their agency's budget by $10 million without getting "axed" by their city council, school board, etc. The first player to do so wins the game. **5:** A bureaucrat is "axed" if he or she collects more than five "insensitive bureaucrat" points during the course of the game. An "insensitive bureaucrat" point can be expunged by one "human compassion" point. **6:** If all bureaucrats in the game but one get "axed" before any player is able to cut $10 million, the remaining player advances to "Update Resumé" and takes both the hint and the game.

Ray Giles – who works, writes, lives and laughs in Sacramento – admits that some of his best friends are bureaucrats.

★ ★ ★

Other "Prop. 13" games now available at your favorite California supermarket include: **"SURPLUS,"** the conference committee game everyone wins (at least for this year). **"GAME OF THE (49 OTHER) STATES,"** created by Howard Jarvis. **"SCRAMBLE,"** a Prop. 13 version of the ever-popular **"BANDWAGON"** game.

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The rise of Blacks in the politics of California

California has seven statewide constitutional offices, and it is possible – although not probable – that four of these posts will be filled with Blacks starting next year. Wilson Riles has already been re-elected superintendent of public instruction. Lieutenant Governor Mervyn Dymally is running for re-election, and the Democratic nominee for attorney general is Congresswoman Yvonne Brathwaite Burke. The Republican candidate for state treasurer is Don French, a young Black banker from Richmond. What accounts for the apparent rise of Blacks in the California political world? Are Blacks ahead or behind in their quest for a fair share of the state's political action? Answers to these questions are provided in the following article, written by a woman who has conducted a national study on the progress of Blacks in politics.

By MARY R. WARNER

There is no doubt that the number of Blacks in California politics has risen in recent years. In Congress are Yvonne Burke, Ron Dellums and Gus Hawkins. In Sacramento are two statewide Black officials: Lieutenant Governor Mervyn Dymally and State Superintendent of Public Instruction Wilson Riles. The state Assembly has six Black members, the Senate two. And two of California's major cities have Black mayors — Tom Bradley in Los Angeles and Lionel Wilson in Oakland.

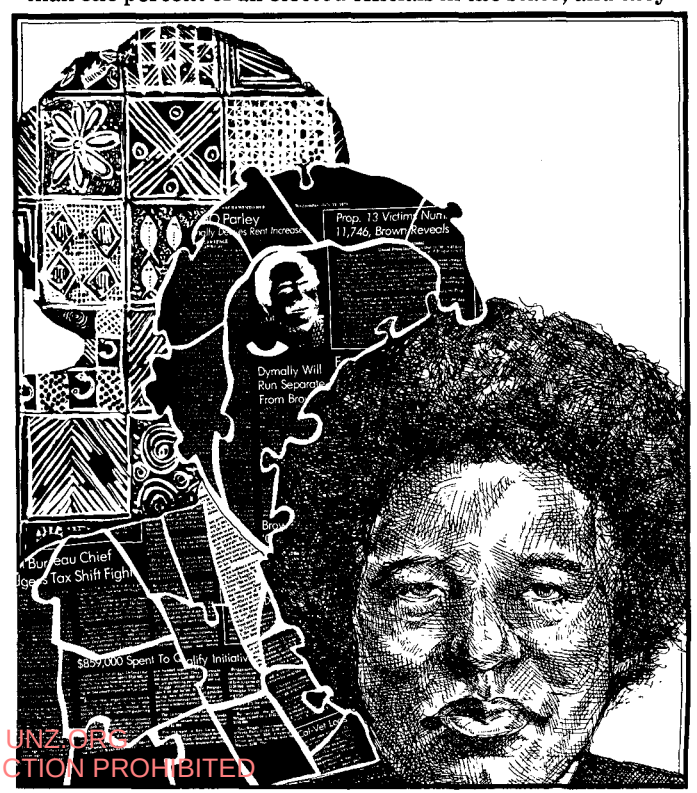
But what does this rise in Black political success really mean? As with most questions, the answer depends on your point of view. Black political progress cannot be measured in a vacuum. It is important to relate it to other factors, such as national trends, the history of Blacks in politics, and the current state of the minority population. Here are some statistical perspectives:

• Compared to the nationwide scene, Blacks in California are faring well. (See the accompanying box.) This seems especially true because the national figures are heavily weighted by the southern states, which account for 53 percent of the national Black population and 60 percent of all Black elected officials. Only five states outside of the South have more than 150 Black elected officials: Illinois (281), Michigan (251), New York (186), California (177) and Ohio (159). (Statistics are from the *National Roster of Black Elected Officials* compiled by the Joint Center for Political Studies, Washington, D.C.)

California is the only state with three Black members of Congress and two Black statewide elected officials. Only four other states have even one Black statewide elected official: the lieutenant governor of Colorado, the secretary of state of Michigan, the state treasurer of Connecticut and a U.S. senator from Massachusetts.

• The distribution of Black elected officials in California differs significantly from national patterns as well. Nearly half (48.3 percent) of all Black officials across the country are municipally elected; the figure in California is 27.7 percent. More than one-third of California's Black officials are serving on boards of education; nationally the figure is less than one-fourth. At the county level, there are proportionately eight times more Black officials on the national scene (8.8 percent of all Black electees) than in California (1.1 percent). Here again, national statistics are strongly influenced by the preponderance of Black rural communities in the South, which have produced most of the country's Black politicians.

• California ranks among the ten states with the highest number of Black mayors, with a total of nine. Seven southern states claim from nine to 14. In the North, Illinois also has nine Black mayors, while Michigan has 15. It seems fair to say that California does not lag behind the rest of the nation in Black political gains, but Blacks still constitute less than one percent of all elected officials in the state, and they



Mary R. Warner prepared a document entitled "Dilemma of Black Politics: A Report on Harassment of Black Elected Officials" as chairperson of the National Association of Human Rights Workers' Committee on the Status of Black Leadership. She is now an administrative assistant to Lieutenant Governor Mervyn Dymally.

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account for more than seven percent of the population.

• While Black representation has increased dramatically in recent years, the gains are more significant qualitatively than in terms of numbers. Take the case of the judiciary which contains more than 23 percent of all the Black officials in the state. Today, there are more than 45 Black judges in California — and more than 30 of them were appointed by Governor Jerry Brown. (He has made 250 judicial appointments since becoming governor.) Although they represent only 4.4 percent of all judicial officials in California, their appointments carry symbolic significance. Minority defendants often believe that Black judges lend integrity to the system of justice by providing them greater assurance of fair trials.

The '60s breakthrough

The case of judicial officials is, of course, exceptional because dramatic change could be achieved by the exercise of appointive power. In other categories, the increase in Black representation must be explained by a more complex set of circumstances. The major breakthrough came during the '60s — before then, any Black in public office was truly a novelty. At the state level, Frederick Roberts was the first Black member of the Assembly, serving from 1918 to 1934. Augustus Hawkins was elected in 1934 and was joined in the Assembly by W. Byron Rumford in 1948. Hawkins subsequently moved on to a seat in Congress in 1962, while Rumford was defeated in his 1966 bid for election to the state Senate.

In the 1950s a handful of Blacks were elected or appointed, mainly to school boards or as judges. But then came the '60s. In 1962, Mervyn Dymally, a protégé of Hawkins, succeeded to his seat in the Assembly. He was joined for a time by the Reverend F. Douglas Ferrell, who defeated a white incumbent in an upset election in Watts the same year.

Then in 1963 Gil Lindsay was appointed to the Los Angeles City Council as a result of a coalition put together by Councilwoman Roz Wyman and Supervisor Ken Hahn. Soon after came the election of Los Angeles Council members Tom Bradley and Billy Mills, the latter now a Superior Court judge. Other cities followed suit: San Francisco appointed and then elected Supervisor Terry Francois; Oakland, Councilman Joshua Rose; Sacramento, Councilman Milton McGhee; and Berkeley, Councilman Ron Dellums, joining Wilmont Sweeney.

From 1964 to 1967, Black representation in the Legislature grew from three to six, with Rumford and Ferrell leaving (1966), Dymally moving up to the Senate (1966), Willie Brown becoming the first Black assemblyman from San Francisco (1964), Yvonne Burke and Bill Greene winning Assembly seats from Los Angeles (1966), Leon Ralph succeeding Ferrell from Watts (1966), and John Miller taking over as the Oakland-Berkeley representative (1966).

During the 1970s, new Black politicians have moved in increasing numbers into local offices, while incumbents sought higher positions — or relief from the frustrations of politics. Bradley, on his second try, became mayor of Los Angeles, and the LA council included three Blacks in addition to the mayor. Neighboring Compton, as an aftermath of white flight, elected a Black mayor and a predominantly Black council. The Eastbay chose several Black mayors, including those in Richmond, Albany, Berkeley and Oakland. Berkeley subsequently became the first city with a population of over 100,000 to elect a council with a Black majority, although it currently has only three Black members including the mayor. John George, in Alameda County, successfully campaigned for election as the only Black county supervisor in the state outside of San Francisco. San Diego's lone Black councilman, Leon Williams, subsequently became vice mayor, as did Jim Wilson in Long Beach.

Meanwhile, Wilson Riles won the office of state superintendent of public instruction in 1970 and was re-elected in 1974 and this June. Julian Dixon was elected to the Assembly from Los Angeles in 1972, as was Frank Holloman. That same year, Yvonne Burke moved on to Congress, joining Dellums and Hawkins. Holloman was subsequently defeated by Nate Holden in a 1974 bid for the Senate, with Holden thus becoming the second Black state senator. Then, in a special election resulting from Senator Dymally's 1974 election as lieutenant governor, Bill Green moved from the Assembly to Dymally's Senate seat, and Teresa Hughes was elected to the Assembly office formerly occupied by Greene. The number of Black state legislators leveled off at eight when Curtis Tucker (1974) and Maxine Waters (1976) were elected from Los Angeles districts and Leon Ralph retired from the Assembly. (This chronological summary is extracted in part from an unpublished manuscript by Seth Fisher, professor of sociology at the University of California, Santa Barbara.)

Problems and progress

There are at least seven reasons for the Black community's political progress: Behind-the-scenes individuals and organizations promoting Black political consciousness. One of the first was the California Committee for Fair Practices, which held statewide meetings in the '50s promoting fair employment practices and fair housing. Key participants included such figures as C. L. Dellums, D. G. Gibson, Virna Canson and Max Mont, and organizations like the Jewish Labor Committee, the AFL-CIO, the NAACP, the Urban League and others. In the late '50s, there was a California Negro Leadership Conference, led by Carlton Goodlett, publisher of the San Francisco *Sun Reporter*, and a Democratic Minority Conference in Los Angeles, which played an important role in Governor Pat Brown's campaign.

These were followed in the mid-'60s by the Negro Political Action Committee, created after the Watts civil disorder. Currently, there is the California Federation of Black Leadership, made up largely of Black businessmen; the statewide Conference of Black Elected Officials; and the

The state and national pictures

• Of the 522,294 elected officials in the nation, about 18,300 or 3.5 percent are in California.

• Of the 4,311 Black elected officials in the nation, 177 or 4.1 percent are in California.

• Of the 522,294 elected officials in the nation, 0.8 percent are Black, though Blacks constitute 11 percent of the national population.

• Of the 18,300 Black elected officials in California, 0.9 percent are Black, though Blacks constitute an estimated 7 percent of the state population.

• Nationally, there are about 247 elected officials for every 100,000 persons. There are 19 Black elected officials for every 100,000 Blacks in the population.

• In California, there are about 92 elected officials for every 100,000 persons. There are 13 Black elected officials for every 100,000 Blacks in the population.

Source: National Roster of Black Elected Officials, compiled by the Joint Center for Political Studies, Washington, D.C.

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Democratic Minority Coalition, organized by Dymally.

Although all the major Black politicians are Democrats, most of the politically oriented organizations operate outside the structure of any political party. Various individuals have been forces for organizing the Black minority within the Democratic party. As an organization, the Democratic party — nationally and in California — has no mechanism for providing support to minority candidates, who usually lack economic resources for their campaigns. The groundwork was laid by the early Black organizations, but other factors produced the victories.

- The advent of the civil rights movement and the concept of Black power. In the '60s, large numbers of Blacks began to view politics as a tool for change. The leadership of Martin Luther King and passage of the 1965 Voting Rights Act provided impetus in California, as elsewhere, for renewed voter registration drives. Blacks increasingly came to recognize that there was little advantage to having access to public facilities if they had no money to make purchases and no influence over policy decisions. President Johnson's War on Poverty also had a significant impact on the way Blacks began to perceive power. The citizen-participation components of the program provided training grounds for Black community leaders.
- The U.S. Supreme Court's declaration of the doctrine of one person-one vote. After the resulting reapportionment in California, Dymally became the first Black state senator. Court-ordered reapportionment also contributed to the 1966 elections of several new Assembly members and to the subsequent elections of Nate Holden to the Senate and Yvonne Burke to Congress.
- The pattern of segregated housing which has confined many Blacks to the central cities. This has resulted in several all-Black districts, especially in the urban areas. These neighborhoods provide a strong base from which to launch Black candidates. Even today, most of California's Black politicians are concentrated in a few communities. Los Angeles alone accounts for 20 percent of all Black elected officials in the state. Sixty-five percent are located in eight cities; 82 percent in just 15 cities.
- Elections by district, rather than citywide. It is easier for Blacks to win in a small district with a homogeneous population than in an at-large campaign, as shown by the recent election of San Francisco Supervisor Ella Hutch.
- Black institutions — particularly the church, the press and labor. These have always been the primary sources of support for Black political activity. Added to their strength is the growth of a Black middle class, politically more aware and economically capable of helping Black politicians.
- The growth of coalition politics. Blacks have effectively used temporary alliances with white liberals and other minority groups. This strategy is perhaps more common to California than anywhere else in the nation. Georgia state Senator Julian Bond has observed that California, in demonstrating the importance of coalition politics, has established a model for the East and North to follow in securing additional offices for Black candidates in mixed districts.

Dymally's role

Some observers, in attempting to explain the rise of Black politics, point to Mervyn Dymally's "political machine" in the southern part of the state. A master of coalition politics, Dymally laughs off the "machine" image and says instead he is merely interested in promoting young people. While serving in the Senate, Dymally reportedly had more staff than anybody else except the speaker. At one time, in addition to leading the Democratic Caucus, he chaired six other committees and had a staff of more than 40. Former staff members of Dymally's now serving in the Legislature include Senator Greene and Assembly members Hughes, Dixon, Alatorre and Torres. Dymally has been an ardent advocate of internship programs, and about two dozen graduates of the Urban Affairs Institute which he founded in the '60s are now in government jobs. Another of his protégés, and an intern of the UAI, Los Angeles Community College Trustee Gwen Moore, will be elected to the Assembly this November (replacing Dixon, who will suceed Burke in Congress).

Dymally's position has been much like that of a farm club manager, cultivating a constant supply of players of coalition politics. The success of his tactics will likely shape the future of Black politics in California. (See "Battle Between the Blacks," *CJ*, March 1975.)

The level of Black political consciousness in this state is now strong enough that the gains in political offices held

ROSTRUM

The **Journal** *welcomes comments on articles or on issues involving California government and politics.* *The Editors*

An incumbent's analysis

If I didn't consider your publication to be credible I would not respond to your predictions of doom and despair ("Outlook for November," July 1978).

In 1974 the political prophets said a "Black couldn't win the Lieutenant Governor's spot." I won. Now I am "vulnerable" — a familiar Republican line. In 1974 I won the primary by less than 30 percent — 29.9 percent to be exact. I won. Now a 55 percent is not enough. In 1974 I won nine northern counties that Governor Brown lost, including Kern, San Luis Obispo, Monterey and a number of other conservative counties. In 1974 I ran against a tough incumbent with Reagan's help, and I won.

This year, I was the only Democratic candidate running for constitutional office with any major opposition. In fact, my normal strengths ran against me — a woman and a Chicano. In the case of Fitzpatrick, I have his endorsement. My opposition spent over one million dollars and barely won against a candidate who spent less than one-quarter of that amount.

It is possible that when one runs for statewide political office in California one could always lose, but not for the reason you gave. Your article had no other evidence than the fact that I received 55 percent of the vote.

I repeat, in 1974 I only received 29.9 percent of the vote. Everyone was certain about Dixon Arnett. Remember him?

MERVYN M. DYMALLY
Lieutenant Governor

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cannot easily be lost. As one Black officeholder retires or moves upward, other Black candidates typically move into the vacancy. There is some hazard of over-competition, however, as in the primary race of three Black candidates for the congressional seat being vacated by Yvonne Burke in her bid for attorney general — Los Angeles Councilman Dave Cunningham, Senator Nate Holden and Assemblyman Julian Dixon.

Another problem is that the media tend to view Black politics the way they view conventional politics — with emphasis on personalities and conflicts. There is a difference, one amply demonstrated when the Legislative Black Caucus became the first group to publicly support Wilson Riles during the recent controversy involving his name being withheld from the primary ballot. Even though the caucus disagreed with the position Riles had earlier taken on a stricter University of California admissions policy, the Black politicians closed ranks in the belief that, overall, Riles is a better representative of Black interests than any alternative candidate could be. Many of those involved in Black politics feel that there is a distinct difference between the competitive approach of conventional politics and the humanistic orientation of Black politics.

Even the renowned Dymally-Bradley "conflict" has been partly media myth. The differences have revolved mainly around candidates, not issues. Bradley is, in fact, serving as one of Dymally's re-election campaign co-chairmen.

The challenge of the '80s

Generally speaking, Black officials receive votes from the Black middle class, demands from the Black lower class, and financial support from whites. They are thus often dependent on financial sources that oppose their politics. Because their constituencies consist of persons with needs markedly different from those of middle-class neighborhoods, Black officials are called upon to seek radical changes in a system that is largely designed to maintain the staus quo. Those officials who practice Black politics — and that does not necessarily include all Black politicians — place at the top of their agenda such priorities as the Humphrey-Hawkins Full Employment Act and affirmative-action programs. To increase their numbers and clout, Black politicians now must expand their power base by coalescing with whites and other minority groups outside of Los Angeles, San Francisco and Alameda County. Although segregated Black populations currently provide a source of strength, they necessarily limit further political development.

Population projections suggest that by 1990, California will have a "majority of minorities." This lends further weight to the soundness of coalition strategies. Already the Democratic Minority Coalition has attracted support from some non-traditional Democratic groups such as Samoans, Indochinese and Filipinos. The increasing presence of these emergent populations is sure to further alter the political climate in the years ahead.

Opposition to Black candidates is seldom registered today in as blatantly racist a manner as it once was. But the rhetoric of "law and order" and "benign neglect" of past years may be finding new birth in what many observers see as a growing climate of conservatism.

Many practitioners of Black politics believe they are hampered by continuing attacks on them and attempts to discredit them — by the media, the law enforcement and intelligence communities and the corporate structure. Some of them feel that they may be hard put to even retain the progress made in the past 20 years. If Proposition 13's message had racist implications, and if affirmative-action efforts are undermined by the Bakke decision — as many Black leaders fear — then Black politicians may confront serious new obstacles in the 1980s.

California CAPSULES

Death penalty initiative qualifies for November ballot

An initiative toughening California's death-penalty law by making it apply to "purposeless, cruel of atrocious" killings has qualified for the November ballot, according to Secretary of State March Fong Eu. The measure is sponsored by state Senator John V. Briggs, who had previously qualified a measure to ban homosexuals from teaching in the public schools. (The state Fair Political Practices Commission reported that Briggs' committee spent $859,000 to qualify the anti-gay measure, which was unsuccessfully challenged in the courts.)

Unless the Legislature places more measures on the ballot in August, only seven propositions will be before the voters on November 7th:

1 — Enacts a $500-million Cal-Vet farm and home loan bond issue.
2 — Revises hearing procedures of the Public Utilities Commission.
3 — Authorizes sale of surplus highway property in the coastal zone for environmental purposes.
4 — Revises chiropractic law.
5 — Initiative regulating smoking in public places.
6 — Initiative prohibiting homosexuals from teaching in the public schools.
7 — Initiative making capital punishment legal for more crimes.

LA busing loophole found in state's new Proposition 13 bill

The Legislature did not intend to provide Los Angeles schools with special funds to implement a $55 million busing program, but a loophole may make the funds available to the school system. During debate on the bill to rescue local government from the effects of the Jarvis-Gann initiative, Senator Alan Robbins was told specifically by Senator Albert Rodda, chairman of the special committee that drafted the bill, that there was no money available for desegregation programs. But the *Los Angeles Times* discovered later that the language in the bill will allow the school board to obtain $55 million in state funds for busing merely for the asking. Robbins and others said they would try to get the law changed when the Legislature reconvenes this month.

Nature Conservancy plans to purchase Santa Cruz Island

An environmentalist organization, the Nature Conservancy of San Francisco, has announced its intention to purchase most of Santa Cruz Island — largest of the Santa Barbara Channel Islands — at a cost of about $3 million. The conservancy launched a fund drive several months ago after the present owner, Dr. Cary Stanton, indicated a willingness to sell the island for conversion to a natural preserve.

State payroll rose 5.2 percent in last census year

The state Personnel Board reported that during the census year ending last March 31st the number of full-time employees on the state payroll increased 5.2 percent. That meant that there were some 5,730 workers added during the 12-month period, to bring the total to 115,216.

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Tom Bradley– safety over leadership

By MICHELE WILLENS

In 1973, when a Los Angeles city councilman named Tom Bradley was running for mayor, Mervyn Dymally did not support him. Dymally said Bradley was reluctant to help other Blacks and was "more of a hindrance than a help to increasing Black representation."

Today, although they still don't like each other, Lieutenant Governor Dymally is more cautious with his words. "I'd rather make peace than war with him," he says. Dymally may be resigned to the fact that Bradley — as mayor of the country's third largest city — enjoys a stature that he doesn't. He has said he expects it will be Bradley who may be the state's first Black governor.

Until this year, many other observers felt the same way. Bradley coasted through his first term and was easily re-elected to a second one. He has enjoyed strong popularity among both Blacks and whites. One poll showed him to be the second most popular political figure in the state, after Governor Brown.

The idea of a run for governor in 1982 has been talked about. So has a run for the U.S. Senate against S. I. Hayakawa. Bradley says both are possibilities since he is on record as saying he will serve only two terms as mayor.

But 1978 has not been a good year for Bradley, and even some of his long-time supporters say they are no longer happy with the idea of his reaching for higher office.

In 1973, candidate Bradley said: "We need an activist mayor who knows what he can do and does it." The mayor of Los Angeles may be limited legally, Bradley said, but he could use the position as a "soapbox" to speak out on controversial issues and exert "moral leadership."

Bradley's people — Blacks, liberal whites, gays, environmentalists — loved hearing those words and had high hopes. Many others — conservatives and business types — feared that Bradley would bring chaos to City Hall.

Five years later, the latter group is pleasantly surprised with its mayor, and the former is wondering if it's been the victim of benign neglect. Some backers who thought they were electing the Black JFK now wonder if they got the Black Jerry Ford instead.

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For the first time, they are seeing Tom Bradley as a man who carefully stays out of territory where he could go — while moving into areas where he shouldn't be.

This feeling has been spurred by several events: Bradley's standback posture on the school desegregation case; his handling of the Olympics affair; his response to Proposition 13; and his frequent traveling. Most frustrating to Bradley supporters is the fact that the mayor has the popularity and political clout to be a strong leader, especially if he's serious about not running for a third term. What has he got to lose, they ask.

Some of that leadership could have been shown in his first statement after Proposition 13 was passed. Instead of offering his confused and nervous constitutents some reassuring words, he said that they should blame the city's police chief, not him, for any police layoffs.

'A good, decent man'

Was too much expected of Tom Bradley simply because he is Black?

"One group expected him to burn down the city," says City Councilman Joel Wachs, "and a second thought he was more than he is. He's not forceful and he doesn't bust his ass."

Joe Rouzan, who worked with Bradley when the former mayor was a policeman, says this: "The truth is, Tom Bradley has never changed. He was never an innovator. Just a good, decent man." But Judge William Clay, who also served in the LAPD with Bradley, says, "He was a strong leader. If he hadn't been Black, he'd have gone further than lieutenant."

Many supporters agreed with Clay and believed that strong leadership would surely surface when Bradley took on the mayor's job.

"I don't know what you mean by 'activist mayor,'" Tom Bradley says today. "I do see myself as someone who immerses himself in hard problems." But City Controller Ira Reiner sees Bradley differently: "He has assiduously cultivated an image of himself as hovering above problems rather than involving himself with them. That can be exasperating for those on the same side with him."

No group has been more exasperated than the activist

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segment of LA's Black community. Columnist Booker Griffin says two years ago he could not get a critical column on Bradley printed in his Black newspaper, *The Sentinel*. "Now," says Griffin, "they not only print them; people thank me for them."

More and more Blacks feel Bradley has not been vocal enough, has not used his power to help other Blacks and has not given them the special attention their problems demand. Unemployment, crime and housing needs continue unabated, Black leaders say.

"In his efforts to please all segments, he has forgotten those with special problems," says Bradley's friend, Bishop H. H. Brookins. "There is frustration in the Black community. Perhaps our expectations were too high, but we had a right to believe our lives would improve. We've gone from a mood of despair to a mood of futility."

"He's restored more than a measure of integrity to city government," says lawyer and former Bradley campaign executive Stan Sanders, "but there is some dissatisfaction among Blacks. He continues to be most useful as a symbol."

Bradley says Black leaders came to him right after the election and told him they would not make unreasonable demands on him. And they haven't for four years. But that may be changing.

"It was legitimate for a couple of years to show that he wasn't going to favor one segment over another," says one Black leader. "But what's he waiting for now, when he has the people behind him?"

The school crisis

If ever there was a need for leadership, it was during the long months of argument, in the courtroom and community, over LA's school desegregation. But Bradley refused to say anything before the court was finished.

"He's been a big disappointment to us on that issue," says Ramona Ripston of the American Civil Liberties Union. "When the leading Black citizen won't come out in favor of school desegregation, how can the community get behind it?"

It was a question asked directly of Bradley by the judge in the case during their one private meeting. "He was very careful, very careful," says Judge Paul Egly. "He said, basically, when you get an order, then we'll help you. He treated me like I was nothing but trouble."

Bradley says he sees himself as a mayor, not a Black mayor, and that to have entered the case would have been wrong. "I felt once the order was handed down, it was going to be necessary for the mayor to be the key leader to pull together all the rest of the leadership," he says. "My credibility would have been impaired if I'd been one of the proponents of a particular plan."

Max Palevsky, who ran Bradley's 1973 campaign, says: "He could have built a machine of sorts. You can use your influence to get other people elected. You can get good tough people around you. But the idea of being politically powerful is frightening to Tom."

Ex-campaign executive Sanders makes this comparison: "Dymally is much more of a wheeler-dealer than Bradley, and is more politically resourceful, Bradley considers that chicanery, and Dymally sees Bradley as a symbol without substance."

Oddly enough, when Bradley has acted politically, it often has been ill-advised. He agreed to do some last-minute ads for then-Senator John Tunney which were Nixonian in their attacks on Tunney's primary opponent, Tom Hayden. Bradley eventually had to call Hayden, under pressure from some influential Bradley supporters, to make amends. But the one-third of the Democratic voters who voted for Hayden still haven't forgiven Bradley.

This year, Bradley got himself involved needlessly in a skirmish with City Controller Reiner over Reiner's one civil-service-exempt position. The whole incident was perceived as political retaliation on the part of Bradley, reportedly because he doesn't like Reiner's media-oriented style of running his office.

Bradley has also been criticized for the caliber of his staff, which some observers say is loyal to the dangerous point. "No one in that office talks back to the mayor," says one former associate.

And Bradley's traveling has been the source of some embarrassment, particularly in light of his criticism of ex-Mayor Sam Yorty for leaving the city too often. Records show Yorty averaged about 63 traveling days a year during his last term in office. Bradley has been gone all or part of more than 70 days in the past year.

Handling the Olympics

One trip the mayor made this year was to Athens, for what was supposed to be the showdown on the city's bid for the 1984 Olympics. His critics say the issue has become Bradley's Panama Canal. First, he failed to convince LA that the Olympics were a good idea. Then he failed to get adequate financial information, which led to differing budget estimates and growing city skepticism. He allowed a freshman city councilman, Bob Ronka, to emerge as the taxpayers' hero, fighting for a cost-control measure on a ballot. Bradley gave in to the idea only after heavy public pressure.

Some observers believe that while the games were being discussed behind the scenes, Bradley did fine. But when they became a controversial issue, Bradley faltered. "He doesn't make things happen," says City Coulcilman Zev Yaroslavsky. "He lets them happen, then reacts. He has a tendency to go gung-ho for something at first. Then, when a force intervenes, like the public or the press, he stumbles."

The Olympic games probably would benefit Bradley's "new friends," the business interests who were once so skeptical about him. But they would mean very little to those constituents whose beat Bradley once walked as a cop.

"He sought and got gay support during his campaign," says Peter Scott of NEWAGE (New Alliance for Gay Equality). "But basically his office would rather not bother with us. ("I only have so many hours in a day," Bradley answers.) I'd say he's been quietly supportive. So far he's done nothing for the anti-gay initiative."

Similarly, many environmentalists aren't sure they have the friend they thought they had. "It's not that he's been bad," says activist Dorothy Green. "He just hasn't been there. By not being anti, you're pro."

Bradley was in favor of the Sundesert nuclear plant, which upset many supporters. They question his "build first, research later" rationalization. "To stop the development of a nuclear plant," he says, "just because the technology for disposing of nuclear wastes does not exist today, is a mistake, in my judgment."

Political experts are watching Tom Bradley closely for signs of his intentions when his second term ends. Before this year, he was surely a formidable opponent for anyone to face. He somehow had managed to be a soothing influence on his large, diverse city, and he seems to love the job.

But now, some observers — both friends and foes — are wondering if he could handle higher office. They worry that Tom Bradley may be a man who dislikes confrontation, doesn't rock boats and is hiding from the people who have done the most for him.

Last year Bradley moved from his modest home in the central part of the city to a 14-room mansion once owned by the Getty family. The question being asked today is whether he is more comfortable amid such luxury than among the people who put him there.

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Reviewing the record of a beleaguered chief justice

By Ed Salzman

The state Legislature undoubtedly helped Rose Elizabeth Bird preserve her job as chief justice of the state Supreme Court by acting rapidly to implement Proposition 13. Consider this alternative scenario: The Legislature is unable to agree on a plan to distribute property-tax and surplus funds to local government for the July 1st start of the new fiscal year. In the absence of such agreement, the Supreme Court finds it necessary to stay the implementation of Proposition 13 until the Legislature can resolve its differences. Wouldn't such an action by the court induce a majority to vote no on Bird in November, when she and three colleagues will have their names on the ballot?

Even without Proposition 13, the Chief Justice faces the possibility of rejection this November. State Senator H. L. (Bill) Richardson has announced that his so-called law-and-order organization will seek to raise $1 million to unseat Bird. The ultra-conservative Richardson, who also heads two gun-owner organizations, claims Bird should not have been appointed to the state's highest judicial office because she does not hold the proper qualifications for the job, because she is a soft-on-crime liberal and because she is a crony of Governor Jerry Brown.

If Richardson is able to mount such a massive campaign, it will be the first time in modern California history that the outcome of a Supreme Court election has been in doubt. A relatively low-key campaign was conducted about a dozen years ago to defeat those justices who declared the Rumford Housing Act unconstitutional, but the incumbents won 65 percent of the vote, losing only Kern County. One problem in such a negative campaign is that the law prohibits an individual from running against an incumbent. Bird and three other justices — Brown-appointees Wiley Manuel and Frank Newman and Reagan-appointee Frank Richardson — will face the voters in November because this is the first gubernatorial election since their confirmation. The citizenry is given one decision — whether the justice should remain in office for another 12 years before facing the voters again. It is strictly a yes-or-no situation. If the noes prevail, the governor gets to name the successor.

The defense committees

Bird — like other justices before her — refuses to campaign, claiming that her office is hardly political. The job, she says, is "one you don't campaign for." This means that Richardson and his allies will be able to fire away at Bird this fall without worrying about direct counterfire from the Chief Justice. But Bird will not be without defenders. Already, ad hoc committees have been formed to combat the Richardson move — all without Bird's participation. These pro-Bird campaigners, mostly lawyers, will try to respond to the specific Richardson arguments and to convince Californians that the no-on-Bird campaign is a serious threat to the independence of the judiciary and its insulation from politics. In a recent address in Los Angeles, attorney Herman F. Selvin, one of California's senior constitutional lawyers, launched an attack against those who are threatening dire consequences against the Supreme Court should Proposition 13 be declared invalid. Earlier, District Attorney Joseph Freitas of San Francisco participated in a pro-Bird strategy session.

Some of Bird's defenders claim that the opposition of Richardson and other Republicans arises chiefly from the fact that she is a woman. Men with no prior experience as judges have been named to the high court without the same kind of protest, they say. They also charge that Bird is the victim of Republican attempts to use her as a way of discrediting the real target — Governor Jerry Brown.

But all that became only part of the backdrop when Proposition 13 was passed. Now the duty of deciding whether part or all of 13 is unconstitutional has fallen upon the Bird court. The Legislature solved the immediate problem by beating the July 1st deadline for an implementation bill. Bird won points with the public by immediately announcing that she would decline a pay raise in order to conserve funds for distribution to local government. She and senior Justice Mathew Tobriner wrote a letter urging other judges throughout the state to do likewise. (Actually, Bird has been searching for some time for a way to reduce her income of $67,000 a year. She lives in a modest apartment, is single, disdains the fashions of Beverly Hills, and lives mostly on fruit, milk, vegetables and nuts. Proposition 13 gave her such an opportunity.)

When and what on 13

But more basic problems remain. Should the court act on the measure before the November election, Bird could be hurt if the public does not like what the court decides. Most lawyers think it unlikely that the entire Jarvis-Gann plan will be found unconstitutional. But they also think the court may well reject Proposition 13's method of determining assessments because it could result in people with identical homes paying different amounts of taxes.

The conventional wisdom in political circles has been that the court will not accelerate consideration of this case. Its normal procedures would produce a decision after the election. However, the court opted to work on the case during the summer, ordering briefs to be filed by July 24th and oral arguments on August 11th. This schedule indicates that a decision may well be handed downed before the voters push yes-or-no buttons for Bird, Richardson, Newman and Man-

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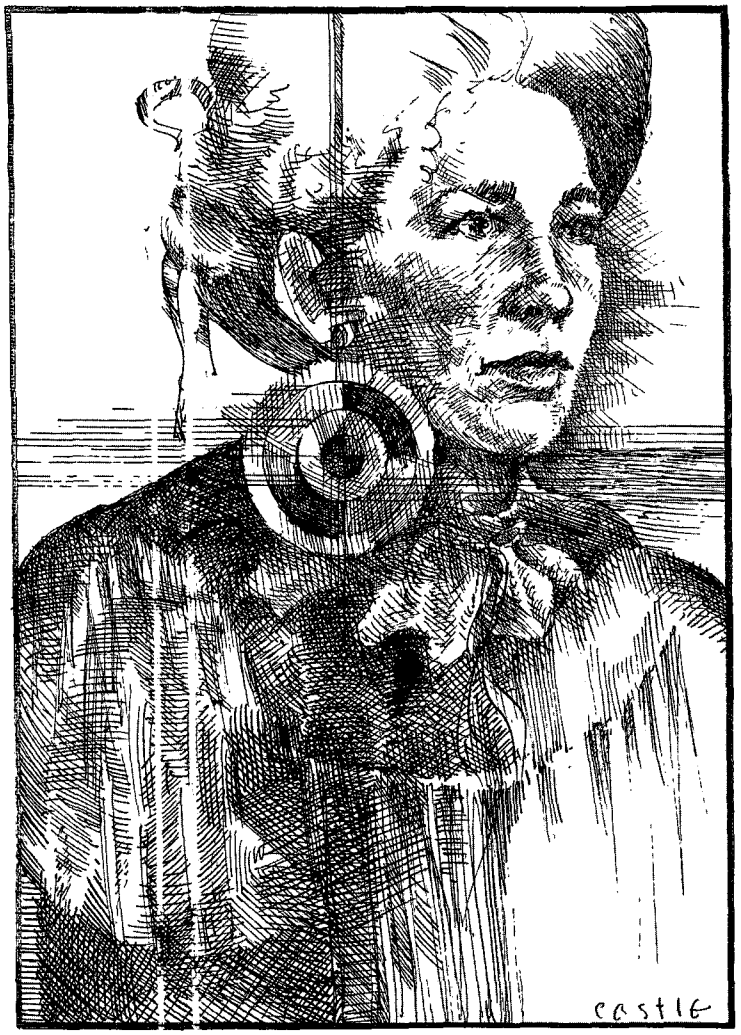

uel on November 7th.

Attorney General Evelle J. Younger, who cast the deciding vote to confirm Bird's nomination, has tried to play both sides on the Bird controversy. First he said that he wouldn't have appointed her but that she was qualified and that he had a duty, as a member of the Commission on Judicial Appointments, to confirm her. Now, as a candidate for governor, he is taking the position that it would not be inconsistent for him to vote against her in November, because that will be a political rather than a judicial decision. However, Younger presumably has the Republican vote and he now must round up as many Democratic votes as possible. Within that context, he must decide whether an anti-Bird stand will help or hurt his chances against Jerry Brown in November.

Soft on crime?

Bird, 41, was sworn into office in March of 1977 after serving for more than two years as Secretary of Agriculture and Services in the Brown Administration. Senator Richardson says his organization is opposed to Bird because she is soft on crime, based on her record in the Santa Clara County public defender's office and on her opposition to capital punishment. But he will have a difficult time backing up that contention by checking Bird's record as chief justice over the past 16 months.

Bird would hardly qualify as conservative, but then a Democratic governor could be expected to appoint someone in the center or to the left of center. Bird's service in the Brown Administration forced her to disqualify herself from two of the court's most controversial cases — the Dennis Banks extradition decision and the ruling to strike down the fair-trade law on alcoholic beverages. The real issue in November should be — even though it won't be — the Bird record. What has she done as chief administrator of the court system, and where has she stood on the cases before the seven-member panel which she chairs?

At the time she was appointed, Bird supporters emphasized that the job of chief justice is heavily administrative, and that she had proved her talent as an administrator while in the Brown cabinet. (For a review of Bird's actions as an administrator, see the accompanying box.)

As a decision-maker, Bird has participated in only a few celebrated cases. But she has voted in enough cases to get a general idea of the unity of the Bird court and where she stands. Through mid-June, Bird had participated in 88 cases for which decisions had been handed down. Of those cases, 59 were unanimous. Here is how Bird voted in terms of agreement or disagreement with the other six justices on the 29 split-decision cases:

With William Clark, agreed on six of 29 or 21%; Frank Richardson, agreed on 12 of 28 or 43%; Wiley Manuel, agreed on 14 of 28 or 50%; Stanley Mosk, agreed on 17 of 28 or 61%; Frank Newman, agreed on 11 of 17 or 65%; Mathew Tobriner, agreed on 22 of 29 or 76%.

These statistics definitely would place her to the left of center. How far left is a matter of conjecture. Clark is generally considered the most conservative member of the court and Tobriner the most liberal. Yet, on three occasions Clark and Bird were on one side and Tobriner on the other. One surprise is how often Bird disagreed with Newman, a liberal who was once her mentor at the University of California's Boalt Hall of Law. This suggests that Senator Richardson may be justified in calling her a liberal because of her record, but he will have a hard time backing up his contention that she is soft on crime.

There is one case, however, that the opposition may be able to use to its advantage. In this case, *Pizano v. Superior Court*, Bird filed a dissent from a decision handed down by all six other members of the court. The case involved a robber who took an innocent person with him as a shield while leaving the scene of the crime because the criminal believed that police were outside. It turned out that the police had not yet arrived, but a neighbor thought he saw two robbers leaving, took a shot at them and killed the innocent party. At issue was whether the robber could be tried for first-degree murder. The majority held that the robber could be tried for first-degree murder under an implied-malice theory. Bird's dissent claims that the majority opinion conflicts with the specific language of the penal code. The killing, she said, does not fall within any of the first-degree categories established by the Legislature and thus must be tried as some other kind of murder (second-degree).

Senator Richardson also can employ a recent case, *People v. Caudillo*, in which Bird found that rape does not constitute "great bodily injury" for purposes of sentencing. Bird wrote in a concurring opinion: "I find I am compelled to sign the opinion of the majority . . . The Legislature intended that rape per se could not be deemed 'great bodily injury.' This court must give full weight to that intent, whatever our personal views concerning this most serious offense." (Where great bodily injury is found, the defendant is given a longer prison sentence.)

Some decisions

In reading decisions written by Bird, and there were 22 through mid-June, it is apparent that she relies heavily on what might be considered strict interpretation of statutes as the basis for many of her rulings. Her writing tends to be detailed, and some of her dissents are as long as or longer than the majority opinions. Here are a few samples from Bird decisions:

- **In a probate case** involving a surviving husband who had accidentally shot his wife instead of her lover (*Es-*

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Longer Court Sessions and Bargain-Rate Motel Rooms

The following is a list of changes, administrative and otherwise, in the state judicial system that have been brought about by Chief Justice Rose Elizabeth Bird or by the state Judicial Council, which she heads, since she took office:

1. Bird has called for the compilation of the rules under which the Supreme Court operates. Previously, the internal operations of the court were governed by unwritten rules that were not always known to all justices. This project is still in progress.

2. Bird has attempted to speed up the processing of cases by use of electronics. Dictation equipment has been purchased and computers may be next.

3. Bird has tried to establish a goal of clearing every case within one year after it has been accepted by the court. The court still has some 1976 cases on its dockets.

4. In the past, parties to cases often first learned of court decisions through the media. Now, they are informed of a ruling when the decision is filed.

5. Bird has assigned trial judges to the Supreme Court on a temporary basis. She says this is an effort to unify the court system and have judges understand what happens at other levels of the judiciary. She has also encouraged appellate justices to sit for short periods in trial courts. However, such procedures have been criticized by some lawyers and judges as an improper use of the appointive power to produce a measure of control over the judicial system.

6. Bird has refused to assign judges defeated by the voters in one jurisdiction to sit on the bench in other jurisdictions. However, she has approved the seating of retired judges.

7. Bird has halted the practice of searching attorneys and spectators before they enter the courtroom of the Supreme Court. She says she feels there is no reason to invade the privacy of individuals without evidence of a specific threat.

8. In previous years, there has been no minimum number of cases assigned to each justice for preparation and presentation to the court for oral argument. Bird has set a goal of at least three cases per calendar, or 30 a year.

9. She has formed two committees to propose ways to improve the judicial system. Reports from these committees are due within the next month.

10. Bird has attempted to coordinate activities of the 13 courts of appeal by conducting regular meetings with the presiding justices of these panels.

11. Written guidelines have been established for the Commission on Judicial Appointments so that witnesses will know what they have to do and so that nominees will know before oral argument the nature of the accusations against them, if any.

12. In the past, the appellate departments of the superior courts often consisted of judges who had held these posts for many years. This was because the recommendations of the presiding judge were approved routinely. Now, these assignments are made on a rotation basis so that every judge will have a chance to sit on the appeals panel.

13. The Administrative Office of the Courts is now working with the State Personnel Board to establish civil-service procedures for employees. In the past, employees have been hired on

tate of Kramme) — "The probate court found that Charles did not intend to kill his wife. Therefore, the court erred in terminating Charles' interest in his wife's estate. This court recognizes that Charles' attempt to settle a domestic quarrel with a loaded shotgun was reprehensible. Nevertheless, the Legislature . . ."

• **In a Hare Krishna solicitation case** *(People v. Fogelson)* — "Los Angeles Municipal Code section 42.14.1 contains absolutely no standards to guide licensing officials in exercising their discretion to grant or deny applications to solicit on city property. Thus, the ordinance gives officials unbridged power to prohibit constitutionally protected forms of solicitation."

• **In a divorce case** *(In Re Marriage of Morrison)* — "In some cases the supported spouse may never be able to adequately provide for his or her needs. A wife who has spent her married years as a homemaker and mother may, despite her best efforts, find it impossible to reenter the job market. In such a case the husband simply has to face up to the fact that his support responsibilities are going to be of extended duration — perhaps for life. This has nothing to do with feminism, sexism, male chauvinism . . . It is ordinary common-sense, basic decency and simple justice." *(In re Marriage of Brantner)* — "The same will, of course, be expected of a wife in those cases in which a husband has devoted his time to maintaining the home and raising the children while the wife has pursued a career outside the home."

• **Freedom of the press** *(Brian W. v. Superior Court)* — "I concur with my colleague, Justice Newman, when he expresses concern over the Los Angeles juvenile court rules which restrict admission to the sessions of the juvenile court to representatives of the 'recognized news media.' To grant admission to some news organizations while excluding others is to encourage the drawing of constitutionally impermissible distinctions, based on unavoidably vague and subjective standards as to what renders one organization more worthy of recognition than another."

• **Conservatorship over an individual** who is allegedly gravely disabled because of mental disability *(Conservatorship of Roulet)* — "The combined effect of these factors — the difficulty of defining mental illness, the factfinder's deference to psychiatric testimony, the tendency of psychiatrists to overdiagnose, and the paternalistic attitude of some appointed counsel — lends strong support to the conclusion that proof beyond a reasonable doubt and jury unanimity are constitutionally mandated standards necessary to assure the fairness of the decision-making process by which LPS (Lanterman-Petris-Short) Act conservatorships are established."

Pluses and minuses

By the time the election rolls around, Bird will have been in office almost 20 months — long enough for anyone to evaluate her performance, especially as an administrator. But the recall effort against her — and that's what it amounts to — will not hinge upon her record, which is virtually unknown to those outside of legal circles. It will depend largely on political factors. If Brown's image is on an upswing, that will be a plus for Bird. If the public is not upset with anything the court has done or is expected to do with Proposition 13, that will be a plus for Bird. If Richardson is able to raise the $1 million and launch a television campaign branding her as soft on crime, that will be a minus. If the ad hoc campaign to support Bird fails to get off the ground, that will be a minus. If the media backs Bird or gives the Richardson campaign little coverage, that will be a plus.

But the big unknown — and it could well be the deciding element — is how the public feels about a woman holding possibly the most important public office in the state. The campaigners won't be talking about it, but the feminine factor might well cause a great many Californians to vote either for or against a 12-year term for the Chief Justice.

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a word-of-mouth basis. The Administrative Office personnel have now been brought together under one roof. There used to be two offices.

14. The Commission on Judicial Performance is now required to report the result of every investigation into a complaint against a judge to the individuals who filed the complaint. This procedure used to be permissive.

15. A tentative rule has been adopted that would place a heavier burden on presiding justices to report when a colleague "substantially fails to perform judicial duties."

16. A complaint procedure has been established for commissioners and referees.

17. Bird is pushing for a proposed rule that would prohibit outside law practice by research attorneys for any appellate court.

18. A proposed rule is in the pipeline to require that appellate courts publish their internal operating procedures.

19. Under the law, a judge cannot be paid if he or she has a case pending for more than 90 days. The Judicial Council has established rules interpreting this law. In essence, a judge who cannot complete a case in 90 days can obtain another 90 days but must submit written reasons why the additional time is needed.

20. Bird refused to delegate a great deal of authority to the chief administrative officer of the courts, a practice that had been followed by her predecessor. (This resulted in the retirement of the administrator, Ralph Kleps, and his replacement by Ralph Gampell, at the time State Bar president.)

In other, less official ways, Bird has stamped her personality on court procedures:

1. Bird has started sessions of the Supreme Court at 9 a.m. instead of 9:30 a.m. so that on most days three cases can be heard before the lunch break. She also has advanced the Wednesday conferences of justices from 9:30 to 9:15 a.m.

2. In the past, attorneys involved in all cases before the court were required to appear at the start of the day's session. Now, those with cases on the afternoon calendar need not appear until 1:30 p.m.

3. Bird has attempted to change the atmosphere of the court by making it less formal. She arranges for coffee and baked goods (often made by her mother) for Wednesday conferences. She has also arranged birthday parties for colleagues and thrown parties for law students who work on research for the court.

4. Bird purchased her own desk, chair and credenza. While the court is meeting in Los Angeles, she stays at a $14-a-night motel. She has sold the chief justice's limousine.

5. Bird has broken tradition in her public speaking appearances by going beyond the legal community for most of her speeches. She says she feels a responsibility to educate the public at large about the role and problems of the judiciary.

6. The Judicial Council now meets in state buildings instead of resorts. The meetings are shorter, and committee reports are circulated in advance. The Council no longer adopts tentative rules before circulating proposals for comments.

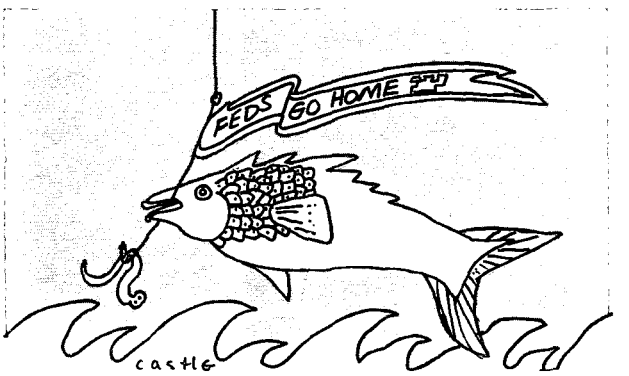
SIGNIFICANT COURT ACTIONS

New hand on the spigot

In one of the most important judicial decisions in California history, the United States Supreme Court ruled on July 3rd that the state essentially can impose conditions on federal water reclamation projects within the state. The high court declared, 6-3, that federal dams, reservoirs and canals are subject to state-imposed conditions that do not contradict federal law.

At issue was a 1975 ruling by United States District Judge Thomas J. MacBride striking down conditions established by the state Water Resources Control Board on the operation of the New Melones dam on the Stanislaus River. The board had ruled that the reservoir behind the dam could be filled to about half of its capacity until the federal Bureau of Reclamation demonstrated the need for the water.

MacBride's decision in *California v. United States* was upheld by an appellate panel, but the board appealed to the Supreme Court because much more than New Melones was at stake. MacBride had ruled that the state could not regulate federal water projects once it determined that there was unappropriated water available to the Bureau of Reclamation. The state was concerned about the effect that decision might have on standards being established for the Sacramento-San Joaquin delta. The state wants to be able to force the release of water from the federal Central Valley project to prevent salt-water intrusion into the delta.



The Supreme Court ruled that the states should have control over their own water resources. Wrote Justice William Rehnquist for the majority: "The legislative history of the Reclamation Act of 1902 makes it abundantly clear that Congress intended to defer to the substance, as well as the form, of state water law." The justice said that the MacBride view "would trivialize the broad language and purposes" of the reclamation act.

Following the decision, the Water Resources Control Board indicated that an effort would be made to get the Bureau of Reclamation to provide more fresh water for saline repulsion in the delta. Said chairman John Bryson: "We've been in a situation where we've been operating on two sets of salinity standards — ours and the bureau's."

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The questions raised by the *Bakke* decision

By Leo Rennert

When former watergate Special Prosecutor Archibald Cox appeared before the U.S. Supreme Court last October to argue the *Bakke* case for the University of California, he confidently predicted a sweeping decision that would shape the course of civil rights for a generation or more. He told the justices their ruling would determine "perhaps for decades" whether Blacks and other minorities could make sizable inroads in medicine and other professions.

The Justice Department also pushed hard for a declaration of historic dimensions. While it had reservations about the special-preference "quota" for minorities at the Davis Medical School, the department argued strongly for a constitutional seal of approval for race-conscious admission programs. "This is not the kind of case that should be decided just by extrapolation from other precedents," said U.S. Solicitor General Wade H. McCree Jr. "We are here asking the court to give us the full dimensions of the 14th Amendment." And, just so they couldn't miss the point, he reminded the nine justices that "this court has risen on other occasions to challenges like this, because we will never forget that when it hears the real cases, it is a Constitution it is expounding."

When Allan Bakke's lawyer, Reynold Colvin, rose to present the "reverse discrimination" complaint of his white client, he also asked for a full-blown constitutional ruling. The court, he said, not only should order Bakke admitted to medical school but strike down, once and for all, any use of racial criteria to measure applicants. "This case is ripe and ready," Colvin remarked.

Punt from the bench

As it turned out, these were all forlorn hopes. Cox, McCree and Colvin expected a knockout, but instead got a confusing split decision. Each managed to salvage enough from the final outcome to be able to claim "victory" — or, at least, that it wasn't a total loss. But their constitutional crystal ball-gazing had been way off. After pondering the case for more than a year, the court scattered in three different directions. It issued six opinions and, most significantly, not one of those opinions was endorsed by a clear majority of five justices. Instead of hearing a single majestic voice, the country was treated to a judicial Babel.

In football parlance, it was the biggest game of the season and — with the score all tied, more than 14 minutes into the fourth quarter, third down and one yard to go — the nation's highest tribunal punted.

"About the best thing you can say about *Bakke* is that it will be dead as a precedent when we finally do get a real decision one of these days," grumbled one of the government lawyers who helped draft the Justice Department's friend-of-the-court brief.

Attitudes and realities

But while this may be an apt critique of the way *Bakke* failed to live up to its advance billing, it overlooks the implications of what the court actually managed to do and the underlying attitudes of some members, perhaps a majority, about the court's proper reach and power in a democratic society.

Just as generals usually like to map strategy as if they were still fighting the last war, the Burger Court tends to be judged against the standard set by the Warren Court. On that basis, of course, it flunks the test. Olympian judgments have been replaced by pedestrian pronouncements. Four years ago, when the Burger Court first confronted a "reverse discrimination" suit against the University of Washington Law School, it didn't just punt; it ran off the field before the whistle had even blown. Only one justice, William Douglas, a certified star of the Warren Court, was ready to jump into the fray at that point. Sensing perhaps that his days on the bench were numbered, Douglas wrote an eloquent opinion that race cannot be used — pro or con — in college admissions. Applicants have a "constitutional right" to be considered in a "racially neutral" manner, he declared.

But Douglas was alone in 1974. The rest of the court decided to wait for another case. Two years later, a more activist California Supreme Court took its cue from Douglas and

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struck down the Davis special-admissions system for minorities. Justice Stanley Mosk ruled that the U.S. Constitution forbids racial-preference policies.

But again, as in 1974, the Douglas-Mosk view had no takers on the Burger Court. Not a single member subscribed to it.

Four justices, led by William Brennan, ruled in exactly the opposite way. They held that the Constitution, far from being colorblind, sanctions race-based programs that seek to redress societal discrimination. In their view, the Davis program — which set aside 16 out of 100 first-year slots for Blacks, Chicanos Indians and students of Asian descent — was constutionally valid. Joining Brennan in this conclusion were Justices Byron White, Thurgood Marshall and Harry Blackmun.

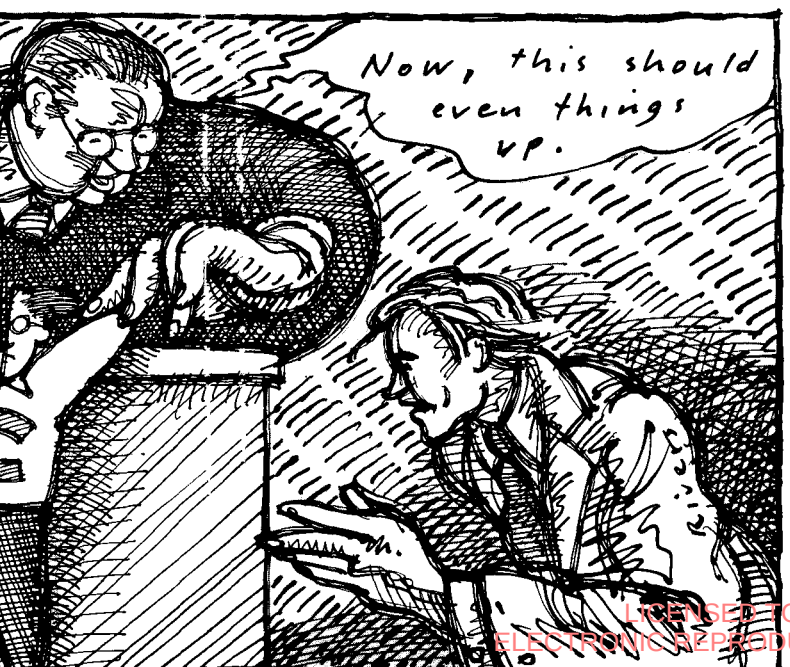
Four other justices, led by John Paul Stevens, shied away from taking any constitutional stand and thus also parted company with the lofty Douglas-Mosk appraoch. The Stevens bloc looked exclusively at Title 6 of the 1964 Civil Rights Act, which forbids racial discrimination in federally assisted programs. Weighing the Davis "quota" system on that scale, it concluded that, by guaranteeing access to minorities with lower scores, the medical school had violated Bakke's rights as a white. Stevens insisted on a limited statutory ruling confined entirely to the facts of the Bakke case. There was no need to render a constitutional verdict and it ill-behooved the court to telegraph the country what it might do with other "affirmative-action" programs, he argued. Joining in this view were Chief Justice Warren Burger and Justices Potter Stewart and William Rehnquist.

Man in the middle

Enter Justice Lewis Powell — switch-hitter, man in the middle, hero and villain of the piece. Stepping into the 4-4 chasm, he glued together two distinct majorities to permit the court to emerge from Bakke with at least some concrete results.

Looking at both the constitution and Title 6, Powell concluded that Davis had gone too far with its rigid "quota" system. When stitched together with the Stevens opinion, Powell's position thus provided five votes to strike down the Davis "quota" and to admit Bakke.

But Powell was not content to leave matters there. Pushing Davis aside, he decided to signal to the country that race could be used more discreetly, along with many other eligibility criteria, in passing judgment on student applications. Powell, however, did not reach this conclusion on the basis of his reading of the 14th Amendment or by tracing the sorry history of racial discrimination in America, as the Brennan foursome did. Rather, he validated race as a "plus" factor because he held that colleges enjoy academic freedom under the First Amendment to determine the makeup of their student bodies. In Powell's view, race cannot be used as a remedy for vague and ill-defined social injustices. But it's okay as a tool for admissions officers who want to let in students from all walks of life. Pasted together with the pro-Davis views of the Brennan four, this produced five votes for the notion that admissions programs need not be color-blind and can take race into account.



The shortcomings of the Powell-fashioned result are obvious. On a scale of zero to 100, how much extra weight can be given to race? We don't know. Can some minorities be given more preference than others? There are no clear guideposts. Which minorities qualify for any preferential treatment? Which don't? Why? Powell isn't very helpful. And who's ultimately accountable when these Solomon-like judgments are made?

But while it's true that Powell raised more questions than he answered, he also accomplished something that none of his colleagues was able to do — to chart a tentative, middle-course path that would not tear the country apart. One only has to imagine what would have happened if he had joined, without reservation, either bloc. Rightly or wrongly, a Stevens ruling would have been interpreted as a crushing blow to the civil rights movement and to all "affirmative-action" programs, leaving minorities to wonder if the legal system still offered them any hope to achieve better treatment and opportunities. Conversely, the Brennan side, had it prevailed, not only would have left Bakke out in the cold but, more ominously, might have unleashed a white backlash with incalculable consequences.

To spare the country either of these scenarios, Powell ventured far beyond the boundaries judges are supposed to observe. Instead of confining himself to the dispute at hand — Bakke versus UC — he reached out and sketched a broad policy framework for "affirmative-action" programs that could pass muster, going even so far as to single out Harvard's admission plan as a worthy blueprint. Lawyers always are admonished that courts settle only real-live disputes and are not supposed to issue advisory opinions on facts and controversies not before them. But Powell crossed into forbidden territory. Conscious of the Supreme Court's position in the country and the high expectations that had formed around *Bakke*, he transformed a judicial decision into an act of political compromise.

At the same time, Powell pulled back from offering a definitive "affirmative-action" cookbook with legal recipes for all occasions. In that regard, he clearly reflects the judicial-restraint syndrome of the Burger Court — its most clear-cut difference with the Warren Court. Rather than wading in all the way and assuming the full burden of solving the country's racial dilemmas, Powell and the court offered only limited help and guidance — and then threw *Bakke* right back in the lap of universities, legislatures, Congress and the entire political system so others also will have to continue to grapple with the problem.

Cop-out or a middle road?

To admirers of the Warren Court and proponents of judicial activism, this was a cop-out, a weak-kneed response to a fundamental challenge. But if you're among those who believe that five appointed judges (or even nine, for that matter) are not necessarily the repository of all wisdom and that other branches of government also should have a piece of the action, you may end up judging the *Bakke* decision — with all its imperfections and ambiguities — in more positive terms.

To the extent that *Bakke* provides any reliable guidepost for "affirmative action," the Harvard plan cited by Powell

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commands special attention. Harvard judges applicants on a wide range of qualifications. While it gives some weight to race to promote a "diverse" student body, it claims to have no fixed quota or separate-admission door for minority students.

In a friend-of-the-court brief, Harvard said it always looked for a heterogeneous student body and, in recent years, expanded this policy to include disadvantaged members of racial groups. "Harvard College now recruits not only Californians or Louisianans but also Blacks and Chicanos and other minority students," the university told the court. "The race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm may tip the balance in other candidates' cases. A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a Black student can usually bring something that a white person cannot offer."

Powell, who received his master of laws degree from Harvard in 1932, eagerly seized on the model supplied by his alma mater, calling it an "illuminating" example of how affirmative-action" programs can take race into account without use of rigid quotas. But he got plenty of argument on that point from other justices as well as from some Harvard faculty members who contend that their university remains an elitist enclave.

From a constitutional standpoint, Brennan could see no difference between the Davis and Harvard racial-preference systems. Blackmun called the dividing line "thin and indistinct." Some cynics, he suggested, might conclude that Harvard accomplishes "covertly what Davis concedes it does openly." Powell, however, insisted that the Davis program showed a "facial intent" to discriminate, while Harvard uses race as "simply one element — in the selection process." He quoted Felix Frankfurter's remark that "a boundary line is none the worse for being narrow." But he also conceded that Davis had committed a public relations gaffe by advertising so conspicuously its race-based admission process and that this posed special problems for him. The entire setup ought to be seen by the public as a fair deal and he again quoted Frankfurter: "Justice must satisfy the appearance of justice."

What if Davis, instead of falling into the "quota" trap, had adopted the Harvard model? Would Bakke have fared any better or worse? Perhaps yes; perhaps no. We are left to guess. It might be argued that under any comprehensive Harvard-type "diversity" scheme, Bakke would have scored high. After all, how many ex-Marine engineers in their mid-30s decide to switch careers and seek admission to medical school? Yet, by its very flexibility and vagueness, the Harvard plan could have been used by the Davis admissions committee to rationalize every selection it made in recent years. In the final analysis, the Harvard plan favors neither white kids nor Black kids. It favors Harvard and its institutional interest to keep outsiders from nosing into its admissions process.

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The ultimate irony

It is perhaps one of the great ironies of the *Bakke* decision that Davis, after making an advance public commitment to accept a specified minimum number of minority students, now will have a much freer hand to make far more subjective — and thus more capricious — selections. By the same token, the public will have a much harder time trying to figure out how sincere and committed Davis remains in pushing for "affirmative action" since its fixed racial benchmarks have been pulverized by the *Bakke* decision.

The high court's three-way split, sketched in six opinions covering 154 pages, rarely rose to great dramatic heights — except in two notable instances. As the lawyer who had led the NAACP's successful assault against segregated schools in the 1950s, Thurgood Marshall issued a bitter dissent. It was, in every sense, what the French call a "*cri de coeur*" — a cry from the heart. Recalling centuries of slavery and segregation, Marshall said the American dream remains outside the grasp of most Blacks. He pictured the *Bakke* decision as a historic retrogressive step for civil rights, likening it to the end of Reconstruction in the last century. If the court continues on this path, it might help "ensure that America will forever remain a divided society," he warned.

The other dramatic high point was the Powell-Blackmun confrontation over the meaning of the 14th Amendment. To Powell, this is now an equal-protection safeguard for all Americans, including whites, even though it was meant to protect mainly Blacks when it was adopted after the Civil War. "The clock of our liberties cannot be turned back to 1868," said Powell. "The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." It is only in instances where administrative, legislative or judicial bodies have made actual determinations of racial discrimination that quotas may be used to remedy specific wrongs, he held. To Powell, Davis could not meet this test since it had not been adjudged guilty of earlier discrimination. Blackmun read the Constitution quite differently. Precisely because the effects of racism still pervade American life, he said, the 14th Amendment must continue to be used as a broad charter to correct societal discrimination. Perhaps at some future time, Blackmun said, the U.S. Constitution finally will be able to become truly color-blind. But not yet, not now, he insisted, when "idealistic equality" still can be turned all too easily into a tool for keeping minorities in second-class status. Breaking sharply with Powell, he said the 14th Amendment cannot be torn from its historic "moorings" and from its original purpose to extend a special helping hand to Blacks. "In order to get beyond racism, we must first take account of race," said Blackmun. "There is no other way. We cannot — we dare not — let the Equal Protection Clause perpetrate racial supremacy."

Looking at the fragmented Burger Court, he also had the last word. No clear constitutional answer had been provided to the *Bakke* riddle. Said Blackmun: "So the ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?"

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PHOTOS BY EVAN NOSSOFF

1978: loser/loser for Winner/Wagner

By **BEVERLY BECKER**

An ordinary campaign-management firm might not have been able to survive a debacle like losing the Proposition 13 battle. In the volatile world of politics, reputations can be won or lost on a single issue or candidate. But if there is one word that definitely does not describe the firm that handled the no-on-13 campaign, Winner/Wagner and Associates, that word is "ordinary."

Winner/Wagner is the only firm in the state that provides full-time lobbying services in Sacramento as well as full-service political-campaign management. Until this June, Winner/Wagner had developed a reputation for invincibility at the ballot box that has rarely been equalled in the history of this state. But the bubble was punctured this June with the passage of the Jarvis-Gann initiative and the defeat of a W/W candidate for attorney general, Burt Pines.

In the four years since Ethan Wagner and Chuck Winner founded their firm, W/W has been the most sought-after campaign management company in the state. Even within the national political community, Winner/Wagner developed an excellent reputation through the successful management of campaigns to defeat anti-nuclear initiatives, including one in California. The big question for the firm now is whether the political world will assign W/W part of the blame for the passage of 13 or assume that there was nothing even Winner and Wagner could have done to stop the Jarvis steamroller.

Sacramentan Wagner and Angeleno Winner came together in 1974 after both had worked as planners and researchers in Jerry Brown's gubernatorial campaign. On election day, they found themselves unemployed. They had more than 30 years of experience between them and no illusions about the nature of the campaign-management business. They thought it would be vital for them to find a way to hire top-notch personnel so that they could develop a can-do reputation and not-so-coincidentally earn comfortable livings for themselves. The problem was that campaign-management is so seasonal that it is impossible to keep top staffers on the payroll all year long. The solution was a heavy commitment to year-round lobbying.

Winner, 37, the more outgoing of the partners, has worked on campaigns since he was 18, starting with the 1958 gubernatorial campaign of Edmund G. Brown Sr. Winner did campaign management work for John Kennedy, Lyndon Johnson, Hubert Humphrey, Pierre Salinger, Edmund Muskie, Bob Moretti and others. It was Winner who came up with the idea to start a multi-faceted firm that would fill the between-election valleys with contract lobbying and corporate consulting.

Winner/Wagner and Associates maintain an office in Los Angeles for the campaign work and one in Sacramento for the lobbying. Winner presides over the LA operation and Wagner the Sacramento branch, although they share responsibilities in both areas and are quick to emphasize the firm is a 50-50 partnership. After four years the firm is turning down more business than it accepts. Although the partners possess different personal styles — Wagner is more detached and precise than the gregarious Winner — they share a political sophistication and dedication to perfection.

Beverly Becker is a free-lance writer in Sacramento.

Campaign risks

Managing campaigns and doing contract lobbying can create conflicts which, if not resolved skillfully, may hurt both ends of the business. Since 1974 about 13 of their 27 campaign accounts were for candidates, but both men say they are now trying to avoid candidates and stick to ballot measures. The reason: It's impossible to handle the campaign of every candidate who asks and turning one down creates the risk of alienating a future public official. With Wagner and his associates lobbying in Sacramento, alienating politicians is not propitious. In addition, candidate work doesn't pay nearly as well as ballot-measure crusades. The potential for headache is also greater in people campaigns, especially when dealing with personalities and families. And staffing requirements for a candidate's race are greater: as least one very mobile, full-time person in the field managing the campaign. A ballot measure, on the other hand, can be passed or defeated with the part-time efforts of staff who are simultantously free to work on other projects, such as corporate consulting.

There are exceptions, however. Proposition 13 this June and the anti-nuclear Proposition 15 in 1976 (the firm man-

Wagner Winner

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aged the No on 15 campaign) required one full-time W/W staff person during the campaign and the nearly full-time help of several other associates. Winner himself spent almost all his time on the battle against Jarvis-Gann.

Winner and Wagner first worked together in Moretti's 1974 primary campaign for governor, although they had known each other long before that. Moretti lost the primary, and they moved on to the Brown camp, Winner as associate campaign manager and Wagner as director of research. When they organized their firm, Winner was the logical choice to head the campaign management side. W/W is his third campaign management firm. In 1968 he opened Cerrell/Winner and Associates with Joe Cerrell. In 1972, after a three-year respite from the political arena, he and Leslie Song Winner (they were married at the time) established the short-lived C. and L. Winner and Associates. They ran Gray Davis' bid for state treasurer as well as the Moretti campaign in Southern California.

The Los Angeles office of W/W, located in Beverly Hills, handles most of what the firm calls corporate communications, in addition to the campaign work. The LA staff numbers between 16 and 20, depending on the election cycle. During the final weeks before the June 6th primary, the Wilshire Boulevard offices were overrun by No on 13 campaign workers. In a few hours of a typical day, Winner approved the proofs for a full-page newspaper ad to be run statewide, screened television spots the firm had produced, and organized a press conference to respond to Howard Jarvis' statement on behalf of apartment house owners.

Winner presides over all operations from an office equipped with leather chairs, videocasette player, color television, and a large model of the Space Shuttle, a gift from Rockwell International which hired W/W to do corporate communications work. At his right hand for the No on 13 campaign was Gloria Grossman, a long-time Winner political associate. About two months before the primary, Grossman decided to work one short day and go home before 9 p.m. Her children wanted to know who she was, she recalls. A month later, Winner's wife Annie gave birth to their first child — and Winner wasn't able to become acquainted with the child until after the election.

Complaints aplenty on 13

But even the political whiz-kids at W/W were unable to defeat the taxpayer revolt of 1978. After the election, criticism of the way W/W handled the campaign came from nearly every group or individual affected by Proposition 13. Public-interest advocates who worked on the W/W-managed campaign complained that not enough emphasis was placed on the merits of Proposition 8, and that the firm shied away from attacks on big business, which had the most to gain from Proposition 13.

Other critics alleged poor organization on the grass roots level. A Contra Costa County organizer complained of lack of cooperation from Solem and Associates in San Francisco, the firm to which W/W subcontracted the Northern California campaign. Unhappy with the firm's performance, an educational organization which contributed $100,000 to the campaign asked for an explanation of where their money was spent.

All this criticism did not fall on deaf ears. Winner is aware of the gripes and admits that they hurt. But hardest to take, he says, is "the criticism based on events we had no control over." According to Wagner, the No on 13 coalition campaign cost $1.6 million (W/W's share was somewhere around $100,000), and the Yes on 13 campaign spent $2.5 million. Fund-raising problems — combined with a prevailing anti-politician sentiment, the late-May tax assessments, the growing state surplus, and, in Southern California, the busing issue — assured Proposition 13's success, according to Winner.

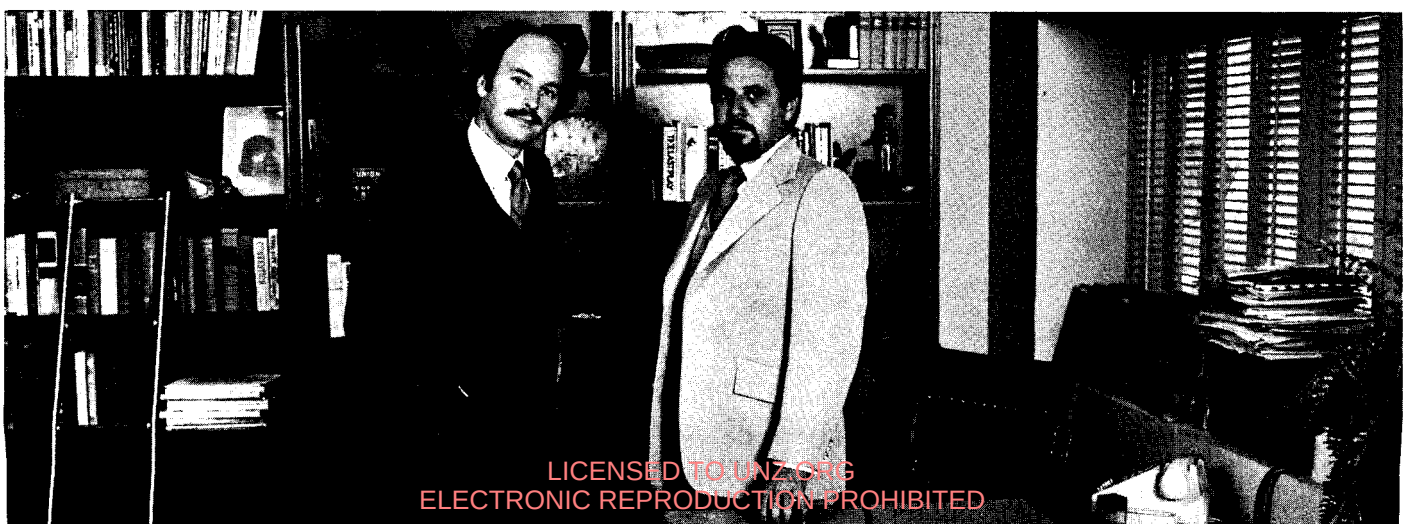
Winner says the Jarvis-Gann people approached his firm first, but it turned them down. Instead it accepted the No campaign, knowing it would be a very difficult fight but feeling cautiously hopeful anyway. "It was the right thing to do, morally, ethically, professionally," recalls Winner. "Going into the campaign in March, the polls were 45-17 in favor of Jarvis. We turned that around to nearly even odds by mid-May." But by late May the polls showed a 20 point loss, and then county assessors mailed new property tax assessments. W/W staff workers knew the fight was over. They moved into their last-minute strategy of trying to sell Proposition 8, hitting at the bipartisan nature of the issue with radio spots aimed at Democrats, particularly in the LA area. But that didn't help. Winner said. "It was difficult to convince the people that this was not *Network*. The reason and the rational arguments we tried to get across didn't work." He seemed disheartened as much by the aftershock effects of Proposition 13 as he was by the firm's first major campaign defeat.

"The public is saying to government, 'We don't like the way you're treating us.' This isn't a taxpayer revolt — it's a revolt against bureaucracy."

Adding to the sting of the 13 loss was Yvonne Burke's defeat of LA City Attorney Pines. W/W made an exception to its policy of avoiding candidate campaigns because of a close friendship between Pines and staff member Paul Mandabach. Mandabach managed the Pines campaign and is now back in the LA office working on corporate communications.

But overall, W/W's campaign record is impressive: 23 wins, 4 losses. Among their successful efforts were the defeat of anti-nuclear initiatives in California, Arizona and Montana, all in 1976. They won passage of the Proposition 2 parks-and-beaches bond issue in 1976 and were successful in Congressmen Norm Mineta's and Mark Hannford's 1976 campaigns.

One of the talents the firm offers a prospective campaign client is its media and public opinion expertise. Chuck Win-



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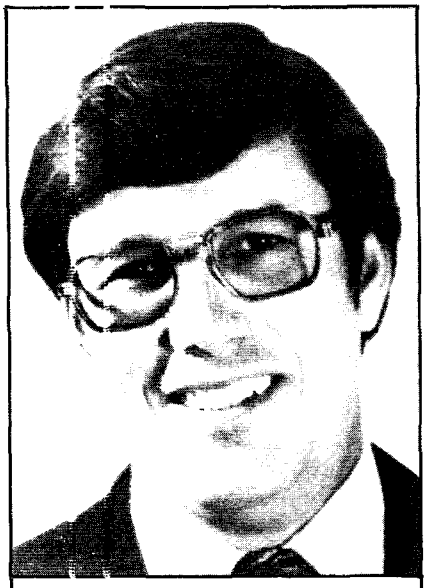
Doing the GOP shuffle



Bill Thomas

On the seventh ballot, a Republican mini-convention in Bakersfield selected Assemblyman **William Thomas** as the party's nominee in the 18th Congressional District. He replaces the late Congressman **William M. Ketchum,** who died following the June primary election. Thomas will face Democrat **Bob Sogge** in November. A second convention was held on July 15th for the selection of a GOP Assembly candidate to replace Thomas, and the nod went to Councilman **Donald A. Rogers** of Bakersfield, a geologist who will be opposed by a retired soldier, **Alastair McTaggart,** in November. Thomas and Rogers are the favorites.

Four members of the Legislature won the nomination of both parties at the June primary election, according to Secretary of State March Fong Eu. The successful write-in candidates are Senator **Ralph Dills** and Assemblymen **Stan Statham, Dan Boatwright** and **Bruce Young.** Statham is a Republican, the others Democrats . . . A small pipe bomb exploded in the driveway of Senator **Milton Marks** of San Francisco. Marks said he did not know whether there was any political motive . . . Former State Finance Director **Hale Champion** was expected to be named commissioner of the Social Security Administration by President Carter. He has been serving as undersecretary of Health, Education and Welfare.

Resignations: **Frank Herringer,** general manager of the Bay Area Rapid Transit District, effective the end of the year; **Richard A. McManus,** chief deputy director of the state Department of Consumer Affairs. Herringer indicated that he was frustrated with not being able to make the BART system fulfill the promises made to the people in 1962. McManus apparently was the sacrificial lamb in a conflict between the department and members of the Legislature.

Appointments: **Quin A. Denvir** of Davis, deputy state public defender, as state public defender; **Leo A. Mitchell,** Oakland labor union official, as a member of the state Water Resources Control Board; sociologist **Gail Fullerton,** as president of San Jose State University; **W. Lloyd Johns,** executive vice-president of Sacramento State University, as president of the campus.

ner produces every television and radio spot for a campaign. The firm does all the work, hiring outside help only to run the equipment. W/W relies heavily on public opinion research, farming out only the mechanical side of polling. Working closely with two firms, Opinion Research and Public Response Associates, Winner supervises and writes many of the questionnaires himself. His firm does its own data interpretation.

Few other operations handle a campaign so intimately. For W/W, this attention to detail has been combined with an experienced staff: "It's Winner/Wagner and Associates, and the associates are just as important as the partners," Winner says.

The Sacramento scene

The Sacramento office, headed by Wagner, is smaller than the LA operation, since California law requires the separation of lobbying from the firm's other activities. Wagner himself has an impressive legislative background, having served as chief legislative assistant to Moretti during his term as Assembly speaker. He served on Alan Sieroty's legislative staff and also worked as a Democratic consultant.

Wagner has a reputation as a pragmatist and perfectionist, rarely acting impulsively. He enjoys the tension between compromise and power, which characterizes the political process, and the challenge of bringing divergent interests together, which characterizes lobbying. About 40 percent of his time is spent lobbying and the rest is split between campaign management and corporate work in the LA office.

The firm currently lobbies on behalf of about 26 clients including Western Harness Racing Incorporated, the California Nevada Soft Drink Association, Blue Shield, Association of Electronic Importers, California Home Furnishing Council, Dutcher Industries and Union Carbide. As with its campaign business, W/W turns down more clients than it accepts.

New clients are usually recommended by existing clients, but the firm sometimes rejects an account after investigating the issue to be advocated. Sometimes the firm takes weeks to decide whether it can comfortably represent the interests under consideration. Final approval or rejection of an account is given by Wagner and Winner, but staff lobbyists Cristina Rose and Bob Garcia have given their opinion. Since they may be representing the account, their positions weigh heavily in the final decision.

Before joining W/W three years ago, lobbyist Rose worked for the State Department of Consumer Services for four years, first as legislative analyst and then as deputy chief, directing the department's legislative program. Wagner calls her "the best lobbyist I've ever seen."

Bob Garcia, the third lobbyist in the Sacramento office, joined W/W in 1977. Garcia, 32, has more than six years of legislative consultant experience and served as Moretti's LA County campaign manager in 1974. During the last four years he has been studying for his law degree while working full time. The firm's 26 clients are divided among Wagner, Rose and Garcia, but each one helps each other in strategy and planning.

It is doubtful Winner/Wagner has started a new trend in the campaign management and lobbying businesses; the firm's success in the past four years is unique. The respected and successful backgrounds of both partners allowed them the freedom from the start to choose carefully their issues, campaigns and staff. What looks like an instant success story is actually the result of Winner's and Wagner's dedication to detail, experience and political contacts.

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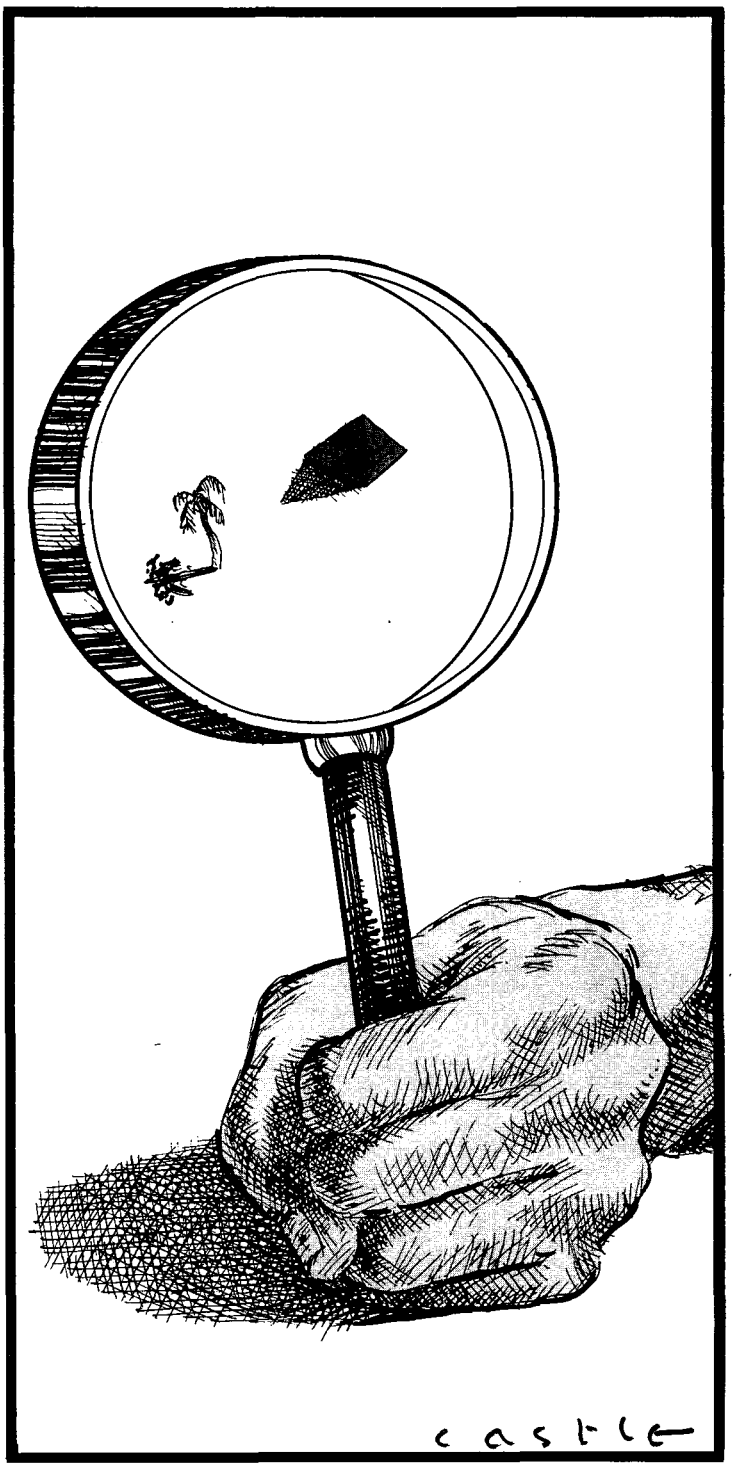
The emotional struggle over the adoptees' 'right to know'

By Louise Jurgens



Any time the state moves into the delicate field of family relationships, the result is bound to be controversy. That's definitely the case this year with a bill (SB 535) that would change the rules on adoptions, making it possible for adult adoptees to get in touch with their birth parents if both parties wish to meet.

Bringing them together would be the job of the recently created Department of Social Services. This would be a distinct shift in the state's role. Traditionally adoption laws have been written to protect the anonymity and privacy of all concerned: natural parents, adoptive parents and children. The accepted custom of sealing adoption records affects more than nine million persons nationwide. In California about 300,000 of the state's adults are adoptees.

In the past few years several organizations of militant adoptees have begun a fight to gain access to their original birth records. Their united voices have provided new impetus for change, but their battle is in a legal arena filled with emotional overtones. At the heart of the problem is balancing everyone's rights. Do the claims of adoptive parents and birth parents take precedence over the adoptee's "right to know"? There are divergent opinions, all profoundly felt, within each separate faction of the adoption triangle — the adoptee, adoptive parents and birth parents.

The controversy has made SB 535 highly perishable. Authored by Senator William Campbell, the bill would work this way:

- ***The state Department of Social Services*** (replacing the Department of Benefit Payments in this year's overhaul of the mammoth Health Department) would maintain a confidential file of requests from adults adopted in California and of birth parents of California adoptees who desire to meet each other.
- ***If mutual requests are filed,*** the department would contact both parties. Adoptive parents would be permitted to file a statement of their feelings, but they could not interfere with communication.
- ***The department and all licensed adoption agencies*** would be mandated to exercise "great care" to maintain confidentiality and privacy of both parties and would be prohibited from publicizing the program. Birth parents would be notified of its existence at the time a child was relinquished.
- ***A fee*** (probably about $75) would be charged to place one's name on file. All requests would be kept for 20 years.
- ***Age of maturity*** is still being debated, but 19 or 21 probably would be the age at which an adoptee could file. A conference committee, scheduled to take up SB 535 later this month, also will consider an amendment to insure that in cases where two or more adopted children of the same

Louise Jurgens is a free-lance writer in Sacramento.

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birth parent are in the same home, no action could be taken until the youngest sibling reaches the age of maturity.

Campbell hopes this amendment will make the bill more palatable to Governor Brown, who vetoed a similar plan two years ago. Co-authored by Assemblyman Barry Keene and Campbell, AB 4200 passed both houses in 1976 but Brown's veto statement said it "would have a chilling effect on adoptions and a disruptive effect on family relations."

Changing midstream

One of the chief opponents of the bill is Assemblyman Eugene Gualco, himself an adoptive parent. His concern reflects that of many others: that adoptive parents are left out of the bill. "I am opposed to the bill on the basis that it would serve to weaken the strength of a family's unity and would furthermore be a betrayal of the agreement entered into by the adoptive parents and the agency at the time of the adoption," Gualco says. He believes strongly that adoptive parents should not have the laws changed on them midstream. These parents were assured that the original birth certificate and all files would be sealed forever, he says. Most opponents feel this bill would violate the rights of adoptive parents. They argue that the bill should not be retroactive and should apply only to adoptions processed in the future without a promise of continued anonymity.

On the other side is Assemblyman Bruce Young, an adoptee and one of the bill's co-authors. Like other backers of SB 535, he sees the bill as a small step toward balancing the rights of adopted persons and their birth parents with those of adoptive parents. No one's identity can be exposed against his or her wishes, advocates point out. Only when a natural parent and a child both wish to meet would the state make it possible.

Many of the standards and policies concerning adoption were established in the United States by the Child Welfare League of America, a private national organization, and the Children's Bureau, a federal agency in the Department of Health, Education and Welfare. Independent and agency adoptions differ basically in the relinquishment procedure. In independent adoptions the birth mother keeps all legal rights to her child up to court action. In agency placements, the birth mother relinquishes all rights to her child the moment she signs the papers. The agency then assumes guardianship until it places the child in a home.

In California, after an adoption is granted, a certificate of adoption is filed with the Vital Statistics Section of the state Department of Health. A new certificate of birth is then issued. This one bears the names of the adoptive parents in place of the names of the birth parents. The original birth certificate and the certificate of adoption are then sealed and can only be seen by order of the court.

A search for roots

In Scotland and Finland, the only European countries where adoption records have never been sealed, only three percent of adoptees take advantage of this freedom and seek out their birth parents. But in the United States, adoptees are increasingly organized and vocal. Statistically, a slightly higher percentage of women than men search for their birth parents. The search is often precipitated by some life crisis: the death of adoptive parents, impending marriage or childbirth. The average age for parent-seekers is around 30, but some begin as young as 18 or as old as 79. Most are seeking knowledge about their roots — answers about their cultural, genealogical and biological heritage.

A number of sociologists and psychiatrists have written in support of adoptees' rights. Arthur D. Sorosky, Annette Baran and Reuben Pannor, co-authors of *The Adoption Triangle*, write of the adoptees' "heredity ghost," their "obscure genetic ego" and "genealogical bewilderment." Persons who are not adopted have health histories and any and all information concerning their roots readily available. The authors claim such persons cannot understand the adoptees' need for something that they take for granted.

The most vocal opposition to SB 535 comes from adoptive parents. They fear losing their adopted children to the birth parents. Sorosky, Baran and Pannor say there is no evidence to substantiate such fears, but many adoptive parents feel that any desire on an adopted child's part to meet birth parents indicates their failure as parents.

There is another subtle but significant concern among adoptive parents: that the Campbell bill would create an entirely different emotional environment for children as they are growing up. One Sacramento mother, whose adopted son is 13 years old, explains it this way:

"He often wonders, academically, what his parents might be like — but it isn't a problem because he knows the chance of ever finding out are so slim. But what if he knew, all through his childhood, that he might find his birth parents when he was old enough? It could color our entire relationship, I'm afraid."

Dealing with grief

And what of the birth parent? In most cases the birth mother relinquishes her infant in order to give her child stability and care within a secure, two-parent home. The prevailing image is that when a birth mother signs relinquishment papers, she forgets her "mistake" and concern for her child stops forever. Because of the premise that the birth mother's best interests rest in total anonymity, and because of lack of any follow-ups concerning the birth parents, it is this member of the triangle about whom the least is known. Recent studies suggest, however, that the mother's greatest concern is often that her child will never forgive her and that intense, unresolved grief sometimes lasts for years.

The debate surrounding SB 535 gives the illusion of something new. In reality there is nothing new about adoptees wanting to know their origins, about birth parents wanting to meet the child they gave up years ago. What is new is the emergence of militant organizations promoting change in the sealed record statutes. The best known adoptees' organization is ALMA (Adoptees' Liberty Movement Association), born in 1971. The ALMA Society, Incorporated, includes about 20,000 adults, primarily adult adoptees, but also many birth parents and adoptive parents who support the society's objectives. ALMA has been helpful in reuniting about 2,500 adoptees and their birth parents. (More than a dozen other groups have sprung up throughout the United States, offering emotional or search assistance to adoptees and birth parents.)

ALMA is attempting to make legally available to adult adoptees access to their records as a matter of constitutional right. But ALMA does not support SB 535. It believes there is no practical way that the bill could ever be implemented and that it would cause enormous damage to people who are overtrusting of the state. Currently, ALMA is filing a class action suit in New York, arguing that the adoptee's sealed record is a violation of his or her constitutional rights as protected by the first, fourth, ninth, thirteenth and fourteenth amendments.

Other changes are being suggested elsewhere in the adoption process. One proposal would open records to adult adoptees on request. Another would provide a means of continuous updating of all information via the agency from birth parents to adoptive parents and vice-versa.

So whether SB 535 succeeds or fails, it has provoked an emotional debate. Like the abortion issue, it raises questions worthy of the wisdom of Solomon — but which must be answered by the legislators in Sacramento.

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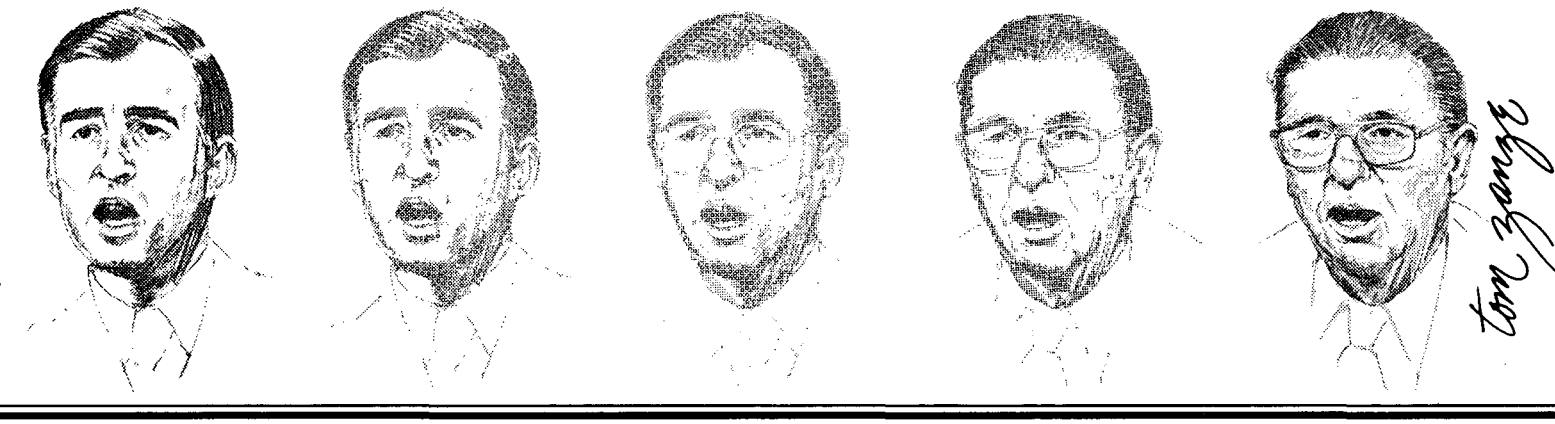
Life after Jarvis

• Surprisingly short casualty list
• Abortion victory for pro-life forces
• That old Brown magic weaves its spell



By Ed Salzman

In the wake of the mighty Jarvis shakeup, the casualty reports are remarkably light. State and local governments have been forced to tighten their belts — but not nearly as much as had been forecast. The state Legislature solved the post-Proposition 13 financial problems with uncharacteristic ease, and the budget battle of 1978 revolved around an issue — abortions — with only minor fiscal consequences. Even Governor Jerry Brown, wounded critically during the early Jarvis skirmishes, brought himself back to full political health with one of his patented Brownstone the Magnificent magic acts.

The key to the Jarvis solution, temporary though it may be, was the massive surplus that accumulated in the state treasury over the past few years as a result of escalating income-tax collections. With some $6 billion in surplus funds, the Legislature was able to give local government $4 billion to counteract the estimated $7 billion in assumed Jarvis property-tax losses. The state also made almost $1 billion available in loans, and local governing boards imposed a flood of miscellaneous taxes (as well as fees) before the measure went into full effect on July 1st. Depending on the jurisdiction, most Californians will now find themselves contributing to the cost of government when they play golf, go to the zoo, rent hotel rooms, pay their utility bills, park their cars, use public transportation facilities and the like. No one has yet computed the total amount of revenues that will be collected through these nickel-and-dime taxes and fees, but it will be considerable. The state surplus distributions, plus these additional local revenues, sharply reduced the number of public employees that were expected to be fired.

Looking down the road

The big question is how long the state will be able to hold off more drastic steps. And that depends on three major factors:

- **What will the state** Supreme Court do with the various challenges to Proposition 13? By agreeing to hear the cases in August, the court indicated that it may well hand down a rapid decision — perhaps even before the November election. Most lawyers who have analyzed the complex problem feel that the court most likely will throw out the method of cumputing assessements — the 1975 value plus a maximum of two percent increase each year (unless the parcel changes hands, in which case the property would be reassessed). The result of such action would be to cut the net loss from Proposition 13 from $7 billion to perhaps $4.5 billion. In addition, taxes would grow over the years with inflation in the real estate market. In other words, such a decision could allow California government to live with Jarvis for a good many years.
- **How tough will** the federal government be with California? Senator Alan Cranston obtained a report indicating that California could lose as much as $6 billion in federal funds as a result of Proposition 13. There is no question but that there will be a $2 billion loss in increased federal income taxes. The other $4 billion is in various programs requiring state and local commitments before the

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federal dollars flow. How much of that money is lost will depend in large measure on how strictly federal rules are interpreted.

• **Will the state surplus** continue to grow and bail out local government next year and beyond? It is known that the state will probably have a $2 billion surplus at the end of the current fiscal year next June 30th, perhaps slightly more (and that includes the $900 million in loan funds available to local government). Will state revenues continue to accumulate? Public employee salaries will not increase, so that sector of the economy will not provide additional state income taxes. State Finance Director Roy Bell has said that the state could anticipate another $5 billion surplus at mid-1980 — if the state economy continues to run strong. It is only when the state income tax stops laying the golden eggs that California will have to face up to the real consequences of the Jarvis-Gann initiative. But nobody can predict when that day of decision will arrive.

A harvest of unknowns

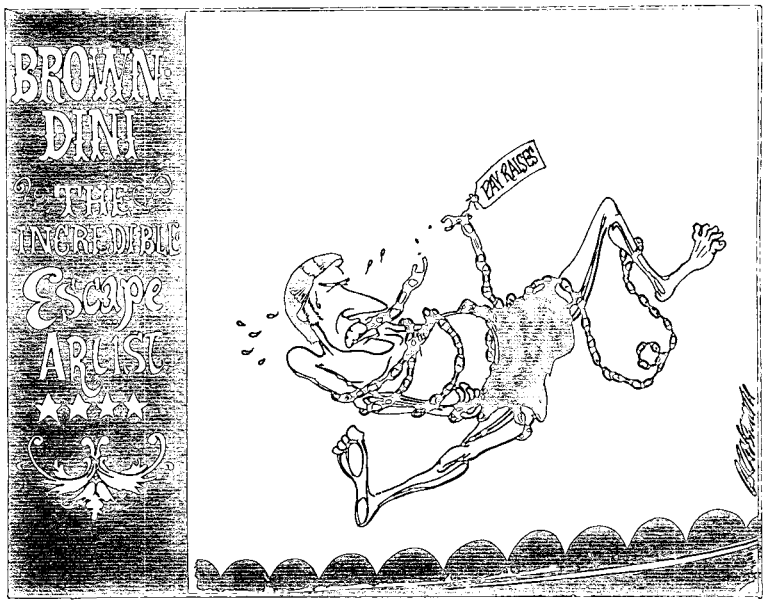
There are many other questions resulting from 13 that cannot yet be answered: What will happen to bond sales by local government? Will any local agency be able to entertain major public improvements? What will happen to property values, transfer of parcels and new construction? Will private enterprise get tough with its labor unions? Will public employee unions be able to rebound? Will communities adopt rent control? Will corporations use their windfalls from 13 to relieve the pinch on government through a variety of programs? How will local public mass-transit operations survive? Will government turn off the public-employee pension faucet?

The main political question that surfaced after the election of June 6th has already been answered: Jerry Brown has halted his downward slide in public opinion and apparently has regained the lead over Republican Attorney General Evelle J. Younger in the November contest for governor. As a result of the Proposition 13 fight and other factors, Brown's projected lead over Younger dropped to one percentage point in the last California Poll before the primary. An election-day survey by a Los Angeles television station showed that Younger would have defeated Brown by four points had the election been held in June instead of November. But a *Los Angeles Times* survey in late June showed that Brown's magic act had elevated him above Younger once again.

During the pre-primary campaign, Brown opposed Proposition 13 vigorously, while Younger supported it without great enthusiasm. When passage became inevitable, Brown reversed gears and immediately started working on implementation of the measure. This reversal won him the plaudits of Howard Jarvis and Paul Gann, who are very happy about what the state has done to make the initiative work — and very unhappy with local governmental tax increases, which they claim are contary to the will of the people.

First Brown cut his own state budget proposals. Then he worked with legislators to develop a scheme to distribute $4.1 billion in surplus state funds, to establish the $900-million loan bank, and to draw up the rules for distribution of property tax income. The Governor then blue-pencilled the Legislature's budget heavily, cutting out all pay raises for state employees. This had the effect of preventing local agencies from granting pay raises. State employee organizations held a mass protest rally, but that rebounded to the benefit of the Governor. After all, even Sacramento County had voted in favor of Jarvis-Gann. At one crucial point, Brown went on statewide television to explain how the state was preventing any cutback in critical services through the use of the surplus. Meanwhile, Younger was suffering from

Illustration by Graysmith, staff cartoonist of the San Francisco Chronicle. © 1978, San Francisco Chronicle



a kidney stone problem and eventually underwent surgery. When the attorney general awoke from the anesthetic, he discovered that his lead in the governor's race had been eradicated by the sleight-of-hand artist in the governor's office. (Graysmith, the *San Francisco Chronicle* cartoonist, labeled the governor "Browndini, the incredible escape artist.")

The bailout package

Politically, Brown faced only two choices following the passage of Proposition 13 — defeat in November or conversion to the New Jarvis Spirit. So he cut his budget, halted state hiring, banned pay increases and let loose of his security blanket, the massive state surplus. The Legislature responded promptly, too, by forming a special high-powered conference committee headed by Senate Finance Chairman Albert Rodda. Republicans tried to make some political capital, but the Democrats were in a strong bargaining position and the committee reached agreement with a full week to go before the start of the fiscal year, July 1st. Here are the main ingredients in the two bills that implemented Proposition 13 (SB 154 and SB 2212):

• ***Local government will get*** $4.1 billion in grants — $2.267 billion for schools, $1.48 billion for counties, $250 million for cities and $125 million for special districts. Another $900 million will be available in loans to help local agencies out of temporary shortages.

• ***Revenues from property taxes*** will be distributed to taxing jurisdictions on a pro rata basis. School distributions will be based on the past year's taxes, while funds for other agencies will be based on a three-year average.

• ***No salary increases*** shall be granted. There will be lawsuits challenging whether this can apply to contracts signed before the effective date of the bill.

• ***Local agencies*** will be required to use surplus funds before receiving state assistance. Several cities have indicated they will refuse state aid because of this provision (and in some cases because of the wage freeze).

• ***The state*** will take over the complete cost of Medi-Cal and welfare programs, now funded in part by the counties. Local police and fire services cannot be curtailed.

At the local level, school districts and counties found themselves in relatively good shape as a result of the enactment of this package. Cities solved their problems for the most part by increasing taxes and fees. Some special districts also increased fees, but others (including the large AC Transit district in Alameda and Contra Costa counties)

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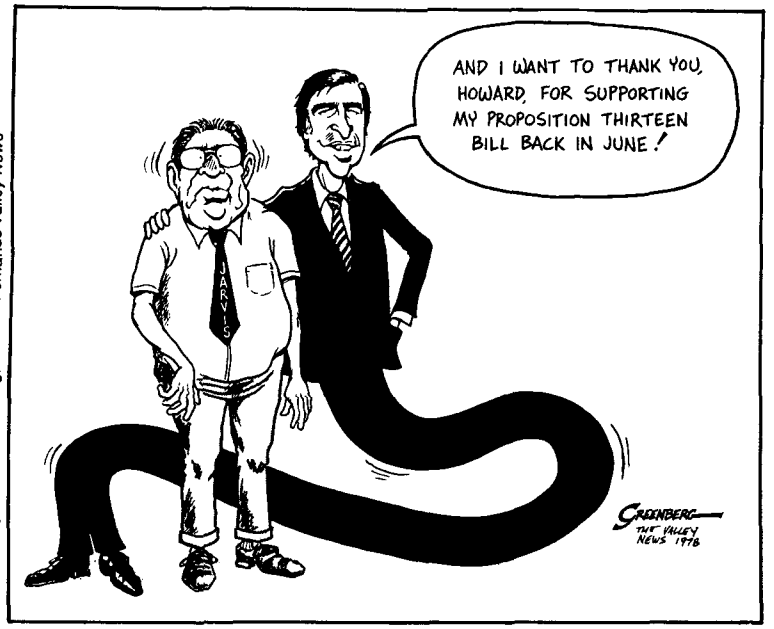
AND I WANT TO THANK YOU, HOWARD, FOR SUPPORTING MY PROPOSITION THIRTEEN BILL BACK IN JUNE!
JARVIS
GREENBERG
THE VALLEY NEWS 1978
Cartoon by Steven Greenberg, the San Fernando Valley News

were forecasting drastic cutbacks in services.

The rapid passage of this plan — plus the fact that it meant relatively few firings and maintenance of most services — gave Brown a chance to rebuild his tarnished political reputation. One key to his success was the late-June television appearance that even his detractors rated as masterful. During the TV event, he announced formation of a Commission for Government Reform, headed by A. Alan Post, who retired last year after serving 27 years as legislative analyst. Other members of the commission: Mayor Tom Bradley of Los Angeles; publisher Helen Copley of San Diego; labor leader John Henning of San Francisco; President Fred Heringer of the Farm Bureau; conservative UCLA economist Neil Jacoby; Appellate Justice Cruz Reynoso of Sacramento; Wilson Riles, superintendent of public instruction; William Matson Roth, a 1974 Brown opponent; Chairman Nathan Shapell of the Little Hoover Commission; Rocco Siciliano, head of the Ticor financial firm; Caspar Weinberger, former state finance director under Ronald Reagan.

In the weeks following June 6th, Brown pulled rabbit after rabbit out of his hat — with the role of magician's assistant being played by angry state workers. Brown announced that he was in favor of a strong measure to limit government spending. (However, no Democrats were ready to buy the package being pushed by Senator George Deukmejian, who just happens to be the Republican nominee for attorney general.) The Governor based his opposition to a pay raise for state workers on his claim that first priority for funds should be given to keeping local public servants on the job. He even came up with a formula showing how much of a pay raise involved how many jobs. (By killing a 2.5 percent pay hike, Brown claims he prevented at least 18,000 local firings.) State workers played into his hands with their demonstration outside the Capitol. Brown appeared before the group, getting national television exposure. Every time Brown was cursed by a demonstrator, his political stock rose.

Battles over the budget

Two categories of public employees were not affected by Brown's ban on pay hikes — judges and legislators. Judges will get an automatic five percent hike through a formula the Legislature failed to rescind. Chief Justice Rose Bird has urged her colleagues to refuse the increase, but only a few judges indicated that they would follow her lead. The legislators are scheduled for a 10 percent increase in December, but they are expected to delay the raise until the start of the fiscal year next July 1st.

While the Proposition 13 bailout bill and the pay-raise question were being debated, the annual state budget sat in the background. For months legislators had known that the key issue would be the funding of abortions for those on welfare. Despite several attempts, there had been no progress on a compromise between pro-life and planned-parenthood forces. Mainly as a result of the abortion showdown, the budget was not signed into law until July 6th — a new late record.

The abortion issue aside, this year's budget is a difficult one to understand from an historical perspective. That's because the passage of Proposition 13 reduced the state cost for property-tax relief, an item of more than $1 billion. This means that the $17.4 billion budget Brown presented the Legislature in January became obsolete the moment Jarvis-Gann was approved. That $17.4 billion included $1.2 billion in proposed property-tax relief and other special items. After Brown was through making cuts from his own budget and after the Legislature completed its revisions, the package sent to Brown was $15.1 billion — a mere $400 million more than the budget sent to Brown the previous year.

The legislators trying to work out a Senate-Assembly compromise on the budget had only one significant fiscal issue — pay raises. The Assembly wanted none, the Senate five percent. They split it down the middle, knowing full well that this would provide Brown with an opportunity to use his blue pencil and help build his image as "Jerry Jarvis."

The abortion issue was much more difficult. It had been hanging in the balance for almost a year — ever since the federal government cut off funds for Medi-Cal abortions, forcing the state to pick up the tab or let some or all of the 100,000 women a year receiving abortions under the program fend for themselves. The pro-life lobby wanted abortions to be made available only to save the life of the mother — the traditional position of the Catholic Church. The planned parenthood forces wanted Medi-Cal women to be able to get abortions on the same basis as other women, on demand.

These contending forces worked the Legislature feverishly for many months, but neither side had the two-thirds vote to do anything affirmatively. They sat there eyeball to eyeball as the fiscal year began — and eventually it was the pro-abortion legislators who blinked. In the end, the Legislature adopted a plan calling for the expenditure of about one-third of the money sought by Brown, but there were estimates that starting August 15th, only about 15 percent of those previously eligible for Medi-Cal abortions will be able to get them. The new abortion rules resulted, in effect, from a compromise between two anti-abortion lawmakers — Senator David Roberti and Assemblyman John Vasconcellos — with the Roberti proposal, the more stringent of the two, generally prevailing. Here are the circumstances under which Medi-Cal women can obtain abortions:

Where the life of the mother would be endangered; where the fetus is tubular and cannot survive; where the pregnancy results from forcible rape and is reported within 60 days; where the pregnancy results from incest which is reported in advance; where the female is under 16 and the parent is notified before the surgery is performed; where tests show the child is likely to be born with a major defect; where "severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term," but this applies only to enumerated conditions.

Norma Clevenger, lobbyist for Planned Parenthood Affiliates, calls the action "an outrageous obscenity" because it establishes different standards for the poor than for other women. She has indicated that her organization will go into federal court this month to force the state to restore the entire abortion program. Similar suits in other states have

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been successful, she says. They are based on a federal requiring that states provide operations when medically necessary, and that includes those needed to preserve the mental health of a woman.

The abortion fight became so intense that at one point Senator Arlen Gregorio, who favored the $34 million allocation, was replaced on the budget conference committee by Roberti, who was on the opposite side. This was theoretically because Gregorio's views did not coincide with those of the Senate majority.

Unless the courts do something definitive, the issue will be back in the Legislature every year. The forces are so evenly divided that neither side will be able to command enough votes to resolve the question early in the budget process.

Assuming that the new rules go into effect on August 15th, it will be interesting to see what effect they have on state health and welfare costs. Clevenger claims that if only 10 percent of the women who would like to have abortions end up bearing children, state health and welfare expenses would rise $[illegible]00 million in the first full year alone.

Brown, who favored full abortion funding, could do nothing about the legislative decision. He can cut, but he can't add to the budget. Working through the night after receiving the package, Brown wielded a heavy blue pencil. In all, he cut almost $400 million, bringing the total down to $14.7 billion. That was enough to let Brown proclaim that it was the first budget lower than the previous year's level of spending in [illegible]7 years (by some $11 million).

Outlining the cuts

The major cuts fall into three major categories — pay raises, cost-of-living increases for those on welfare and highway transportation allocations. The $100 million Brown cut in pay raises was supposed to have the effect of preventing salary hikes in local government. But there are two questions. First, can the state abrogate a contract between an employee organization and a public agency? Secondly, won't public employee unions now fight hard for improved fringe benefits, which were not frozen?

Brown vetoed $16.2 million which would have provided 2.5 percent increases for 1.4 million Californians covered by Aid to Families with Dependent Children. But he approved $114 million so that 700,000 aged, blind and disabled recipients can get 3.7 percent increases. The Governor recognized that many of those who supported Proposition 13 had in mind cuts in welfare spending.

By far the largest reduction was some $210 million from the state highway fund. This does not affect the state surplus because transportation allocations come out of special funds. In effect, Brown brought the highway appropriation back down to the level sought by his Transportation Department before it was increased by the Legislature. Many lawmakers are upset at the anti-construction attitude of Transportation chief Adriana Gianturco, and they expressed their displeasure by not voting her a full-year salary. (The remainder of the year's salary can be restored next winter.)

The budget total of $14.7 billion is a rather meaningless figure because it does not include the $4.1 billion in aid to local government. Next January, the new budget will report this year's budget as something in the vicinity of $19 billion. That, too, will be a deceptive figure because it will not reflect the austerity program forced on the state by the voters.

Upon signing the budget, the Governor declared: "This budget sets California on a new course . . . It keeps faith with the voters' mandate to reduce spending and at the same time serve human needs."

So within one short month, the politicians in Sacramento — supposedly a prime target of the Jarvis-Gann initiative — proved that they can get a tough job done when their feet are put to the fire. And the headliner in the cast, Jerry Brown, showed once again that no one in the nation today can compete with him in the field of political prestidigitation.

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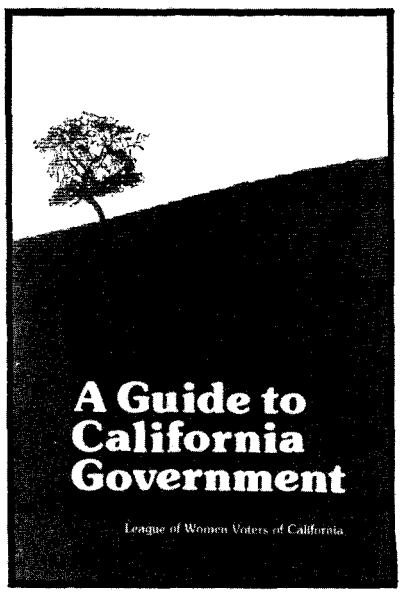

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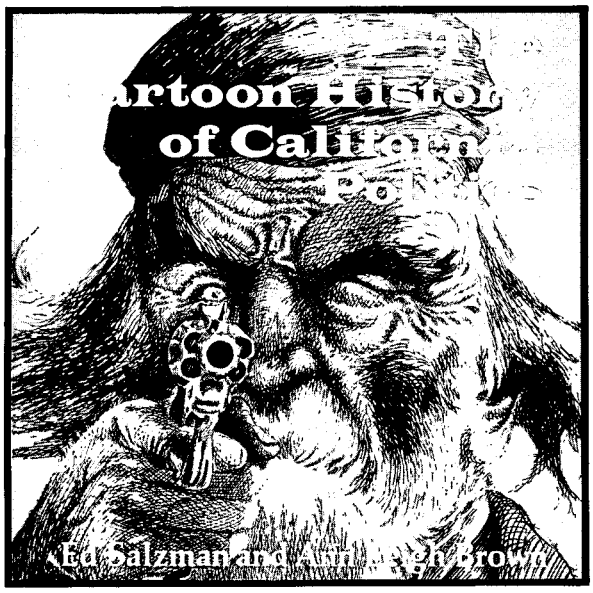

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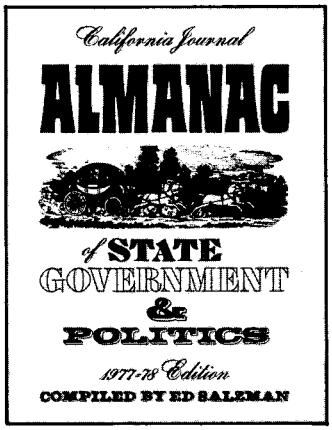

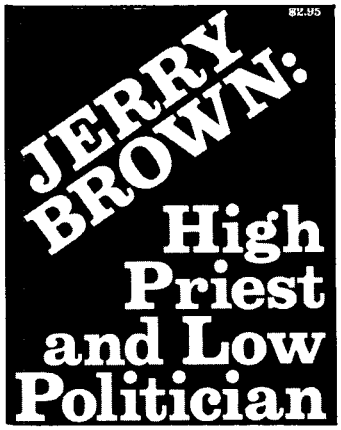

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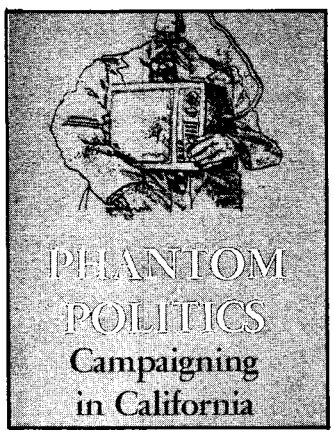

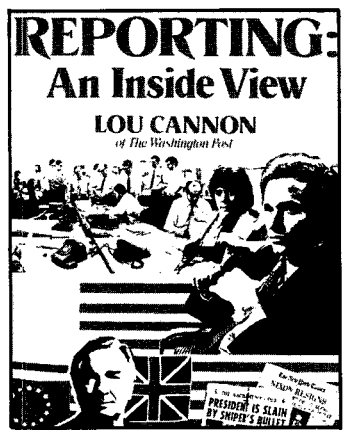

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The huge pension debt-- except the lawmakers' own fund

ILLUSTRATION BY SUSAN DOUGLAS

By LAURA FREDERICKS

Compared to the federal Social Security system, California's public-employee pension systems are in mighty good shape. They're only about $24 billion under-funded. The federal government no longer makes any pretense about the Social Security system, which is no longer viewed as a sinking fund arrangement that makes payments out of investment income. But California's miscellaneous pension funds are supposed to do just that. And they have assets of some $12 billion to meet estimated long-range obligations of about $36 billion. This deficit is the product of unanticipated inflation, increased benefits and, in most cases, poor financial planning.

These deficits are usually called "unfunded liabilities." And the systems are able to operate efficiently despite the lack of assets simply because the obligations need not be met immediately. The liabilities have existed for a number of years, increasing gradually with inflation or new benefits — without comparable increases in contributions from employers and employees. But now the state has come to the realization that some day it must pay the piper and that unfunded liabilities cannot be carried forever.

The state administers five basic pension systems. The biggest — and one of the two soundest — is the Public Employees Retirement System (PERS), which provides retirement benefits to most state and a variety of other workers. The second largest — and the one in worst financial condition — is the State Teachers' Retirement System (STRS). It has never been funded properly, and the unfunded liability is so great that it may continue looking like California's little Social Security system for many years to come.

Two relatively small systems provide benefits to the state's judges, legislators and statewide elected officials. The Legislative Retirement System (LRS) was completely paid off last year at a cost of $28 million, but the Judges' Retirement System is in extremely poor health. There are also 20 counties which administer benefits under a special 1937 law. These 20 funds are autonomous and reasonably stable.

The iron-clad rule

One of the reasons why it is difficult to reform pension funds is an iron-clad rule of law that once a benefit is granted, it cannot be taken away. Thus, reductions are possible — but not for any employees who have already accumulated benefits. The courts have adopted this position to protect individuals against cutbacks in retirement credits which they are promised at the time of employment. Here is a look at the condition of the five systems:

Laura Fredericks, a student at the University of California at Santa Barbara, prepared this article as a Journal *intern.*

• **Public Employees Retirement System.** With more than 700,000 working and retired members, PERS is larger than all other retirement systems in California combined. Members are classified in one of three categories:

Miscellaneous members constitute nearly 90 percent of the total and include all staff, operational, supervisorial and other workers who do not fall into one of the following special categories.

Safety members, roughly 9 percent of the total, include all California Highway Patrol, police, firemen and other workers whose jobs have been designated as "safety" occupations. Highway Patrol officers receive slightly different benefits than others in the group.

State industrial members include some 5,000 employees in the Department of Corrections and the Youth Authority. Their benefits are only slightly different from those received by miscellaneous members.

Membership in PERS is mandatory for all state civil-

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ILLUSTRATION BY SUSAN DOUGLAS

service employees. PERS also has contracts with about 1,000 California cities, counties and special districts. In addition, PERS administers the federal Social Security system for state workers and the Legislative Retirement System, which operates on a separate fund.

Both contribution rates and benefits are calculated according to the final salary of the employee and his or her total years of service. Active members pay into the system at varying rates (5 to 6 percent of salary for miscellaneous workers, 7 percent for local, 6 percent for safety and 8 percent for Highway Patrol), which — when combined with employer contributions and investment earnings — are supposed to cover all foreseeable future payments.

According to PERS legislative liaison Howard Sarasohn, PERS is not a typical public pension program because it operates on a reserve funding basis; as a new benefit is added, contributions are promptly increased. Thus Sarasohn claims that, even though PERS is currently carrying an unfunded liability of more than $7.5 billion (largely as a result of inflation over the past five years), it is sounder than ever before. Indeed, PERS is now considered the bright spot among California's pension systems because it will be able to meet its obligations without any major reforms. By the time payments are due, PERS should have the money in the bank.

PERS meets potential deficits by increasing employee and employer contribution rates over a set period of time, and 30 years is generally considered a prudent period over which to amortize such liabilities. There are, nevertheless, certain trends which could threaten the financial stability of the system. Of concern to PERS and other systems is the rapid increase in disability retirement claims, especially among workers in the safety category. Disability retirement usually provides the retiree with close to maximum-level benefits at a much earlier age. In a recent five-year period, disability claims increased 110 percent, and safety disability costs are rising at twice the overall rate.

A related problem, unique to PERS, involves employees in the miscellaneous or industrial categories seeking to move into the safety classification. The main attraction is earlier retirement, and many groups are getting it. Safety workers have traditionally received enriched benefits because their work is considered exceptionally dangerous or demanding, and because optimum performance often requires youth and physical agility. Thus, earlier retirement for safety-category employees makes sense. But now many public employees without those kinds of jobs want safety workers' special benefits.

In an attempt to find some means of controlling the growing safety category, the Legislature last year passed a bill directing the state Finance Department to study the various classifications of PERS employees, especially the safety segment and its growing membership.

• **State Teachers Retirement System.** With 332,000 active and 65,000 retired members, STRS is much smaller than PERS but in far worse financial shape. An unfunded accrued liability of $8.2 billion, which is expected to increase again this year, has made STRS the New York City of California's pension systems.

STRS has been in debt since the day in 1913 when it began paying retirement benefits for the state's certified teachers. Operating on a pay-as-you-go basis, it has never provided adequately for future benefits and increases. Today, the problems resulting from poor fiscal planning, inflation, earlier retirement and longer life-expectancy have been compounded by a tradition of inadequate employer contributions to the fund, leaving STRS dangerously in debt.

In 1971 the Legislature passed the William E. Barnes Act which attempted to bail out the system by increasing school-district contributions and pledging state general fund contributions of $135 million annually for a 30-year period. The state contribution is, however, specifically designated to pay for past deficiencies and retired teachers' benefits. It does nothing to fund current or future obligations.

Furthermore, the Barnes Act was based on an incorrect actuarial assumption that 16 percent of payroll (8 percent from teachers and 8 percent from districts) would be enough to keep the system in the black. In 1975, a new actuarial study found that 21.1 percent of payroll would be required

The Brown book beat

Thus far, five books on Governor Brown have appeared on the market, four of them within the past few months. Here is a listing of the four new hardbacks, with comments from a review by Lou Cannon in the *Washington Post*. Cannon, former *Journal* correspondent in Washington, is now the *Post's* western bureau chief based in Los Angeles.

JERRY BROWN: The Man on the White Horse, by J. D. Lorenz. Houghton Mifflin. 267 pages. $8.95. *"Lorenz's entertaining account is flawed by a bad dose of sour grapes."*

BROWN, by Orville Schell. Random House. 307 pages. $10. *"It is the kind of book that might have been written by the governor's mother, Bernice Layne Brown, except that one suspects Bernice would have been a bit more critical."*

JERRY BROWN: In a Plain Brown Wrapper, by John C. Bollens and G. Robert Williams. Palisades Publishers. 272 pages. $9.95. *"While authors Bollens and Williams try to be analytical, they are constantly defeated in their own prose."*

JERRY BROWN: The Philospher Prince, by Robert Pack. Stein and Day. 293 pages. $10. *"Those poor souls who are merely seeking information will learn more about Jerry Brown from Robert Pack's biography than they ever wanted to know."*

The fifth book, a paperback, is **JERRY BROWN: High Priest and Low Politician,** by Ed Salzman. California Journal Press. 127 pages. $2.95.

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to pay just the normal costs of the system (day-to-day pension payments) plus the interest on the unfunded liability. To amortize the entire $8.2 billion deficiency would require a total of 24.75 percent of payroll for a 40-year period.

Recent legislation has attempted to increase both district and general-fund contributions over a five-year period to help meet the system's immediate financial obligations. But further legislative action is required before the bill becomes operative. Even with this short-term program, it is obvious that the next generation of California taxpayers will inherit the same problems — and by then they will be worse.

Most of the financial problems with STRS are not due to excessive benefits for the state's retired teachers. Working teachers pay 8 percent of every paycheck toward their retirement benefits, one of the highest contribution rates in the state. Teachers who have retired within the last couple of years, on inflationary wage scales, are receiving realistic benefits. Older retirees, however, are not so lucky. Despite the cost of living increases granted last year, most older retirees are finding their pensions fall far behind cost of living increases and barely provide enough for survival. (STRS gives a 2 percent annual cost of living increase to retired teachers.) Currently the goal is to step up contribution rates to 21.75 percent of payroll by July 1st, 1979. This is often referred to as the "infinite funding level" because the system could continue operating indefinitely without increasing or decreasing the size of the unfunded liability. The $8.2 billion unfunded liability would remain; in fact, before the infinite funding level is finally reached, that amount will probably have increased.

• **Judges and Legislators.** California also has two small, exclusive retirement systems providing pensions for legislators, constitutional officers and judges. Both built up huge unfunded liabilities over the years as a result of poor — or no — fiscal planning. Because both systems are relatively small, no one paid much attention to the growing debt. Then last year the Legislature took care of number one. The Legislative Retirement System (LRS) has only 188 active and 143 retired members and is administered through PERS but with a separate fund. The Legislature simply appropriated $28 million to pay off all past accrued liabilities and stepped up state contributions to fund all current and future benefit payments. Thus, the Legislature has, in effect, a fully funded retirement system.

For the Judicial Retirement System (JRS), salvation has not come quite so easily. The most recent report on the system estimated the outstanding financial obligation at about $400 million. JRS has never had any means of advance funding, and contribution rates have consistently been insufficient, considering the benefits received by California's judges. The scale is based on salaries of practicing judges rather than on an individual's final salary and total years of service.

The startling size of the unfunded liability is somewhat misleading. It represents the value of benefits due in the future. Legislation passed in 1977 gave JRS until 2002 to reach a fully funded status. According to the actuarial report, this will require an astounding increase in contribution levels from the current 27.8 percent of payroll to 84.4 percent over the next 24 years. Just to keep the system functioning without increasing the unfunded liability would require 56.7 percent of payroll. The key issue is how much of the burden the judges will bear and how much the state will carry.

• **1937 Act Counties Law.** Twenty California counties administer retirement benefits under this statute. By deciding against joining in the larger and more complex state pension system, the individual counties and their corresponding local governments are able to maintain a substantial degree of local autonomy and control. Benefits vary from county to county and by job classification. Each county board of supervisors may choose among various benefit options, thus creating a retirement system custom tailored to an area's special needs. As with PERS there are both safety and miscellaneous employee classifications. Some degree of uniformity between counties is achieved by having all safety workers under one standard formula and all miscellaneous workers under one of three different formulas.

The local governments have been relatively responsible in administering the pension systems, according to Mike Corbett, an analyst studying the law, but inflation is undermining their viability. No pension system in California has been able to keep cost-of-living payments commensurate with inflation. Disability retirement also has been a bothersome problem with the individual county pension systems. Claims have been increasing rapidly among all classifications of employees, but especially among safety workers. "Even though most of the claims are probably legitimate, the work ethic has changed in our country," says Corbett. Twenty or 30 years ago, employees would go to work despite minor disabilities or pain because they had pride in their jobs. This is no longer the case, he says. Many workers are using disability claims as a means of receiving early retirement; others are taking advantage of high disability benefits and going back to work at other jobs. Some employees have discovered loopholes and are receiving benefits from two or more systems. Such "quirks in the law," as Corbett calls them, are rapidly increasing costs for local government.

However, the 1937 Act Counties Law has generally satisfied customers. Corbett's study, although still in its early stages, has shown that all 20 counties feel that their system is the best one possible for them.

Prohibitive costs of reform

What will be the solution to growing pension problems? Assembly Speaker Leo T. McCarthy has declared a moratorium on all retirement legislation until the Finance Department study on PERS categories is completed next January. STRS and JRS are in critical shape. Both will require vast sums of state money and generations of bigger contributions before they reach full funding. The cost of complete reform is so prohibitive that for now STRS is simply striving to maintain its debt level, without further increasing the unfunded liability. As David Cox, consultant to the Assembly Committee on Public Employees and Retirement, puts it, "At times you think that just maintaining the status quo is an advancement."

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The August leftovers

Legislators departed on a one-month vacation in early July after enacting the state budget and a major Proposition 13 measure designed to keep local government operating without major cutbacks for the current fiscal year. But there were still several major issues remaining to be resolved during the remainder of this year's session, which was scheduled to resume on August 7th. Here are some of those issues:

Legislative salaries. The Assembly is solidly behind a measure by Assemblyman Dennis Mangers to freeze lawmaker salaries at the current level of $23,232 until July 1979. The Senate appears reluctant to go along with the bill, which would postpone a 10 percent raise to $25,555, effective with the start of the 1979-80 session this December.

Judges' salaries. Under current law, judges will get automatic pay raises despite the fact that salaries have been frozen for all employees of state and local government. A bill by Assemblyman John Miller, who has been nominated for an appellate judgeship, would prevent judges from getting a five-percent hike this year.

Limitation on government spending. This may be the most difficult issue to resolve. Everyone seems to be for a constitutional amendment establishing a formula to limit expenditures by both state and local government. The problems are the contents of the formula and the authorship of the measure. The leading measure at the moment is SCA 42 by Senator George Deukmejian, the Republican nominee for attorney general. Democrats don't want to give him a campaign vehicle and they would prefer to tie the limit to personal income, rather than population and the cost of living. The Legislature has approved an extension until August 15th for the placement of SCA 42 or a similar proposal on the November ballot. That only gives lawmakers a week to come up with a solution, and the partisan bickering is apt to become intense.

Business taxes. Senator Ralph Dills, backed by public employee organizations, is trying to get a measure on the ballot that would take the benefits of Proposition 13 away from owners of commercial and industrial property. But it appears doubtful that this split-roll concept would be approved for the November ballot. Governor Brown has called the plan premature.

Peripheral Canal. The Brown Administration may try to move its water-project measure authored by Senator Ruben Ayala. The bill, among other things, would authorize construction of the $3.5 billion Peripheral Canal around the Sacramento-San Joaquin Delta.

Senate (26D, 14R)	SB 1355 SB 2230 AB 2190 SB 1789	AB 1222 ACA 55 SB 2143 SB 1781	SB 2005 SB 1480 AB 1073 AB 1941		SB 1355 SB 2230 AB 2190 SB 1789	AB 1222 ACA 55 SB 2143 SB 1781	SB 2005 SB 1480 AB 1073 AB 1941
Alquist (D)	NNNN	Y*YY	NNNN	Marks (R)	NYYN	YYYY	YYN*
Ayala (D)	YYYN	NNYY	YYYY	Mills (D)	NYYY	*NYY	*Y*Y
Behr (R)	NYYN	Y*YN	YYN*	Nejedly (R)	YYYY	YNNN	NYYY
Beverly (R)	NYYN	NYNN	YYY*	Nimmo (R)	YYNN	N*NN	NN*N
Briggs (R)	YYYN	**N*	NN*Y	Petris (D)	*YY*	Y***	Y*N*
Campbell (R)	YYYY	*NNN	*N**	Presley (D)	YYYN	NNYY	NNYY
Carpenter, D. (R)	Y**N	N*NN	NNNN	Rains (D)	NYYN	YNYY	YYN*
Carpenter, P. (D)	YYYY	YNYY	NYYY	Richardson (R)	YYNY	NNN*	NNYY
Cusanovich (R)	YYY*	NNNY	NNYN	Robbins (D)	NYYN	*YYY	YY**
Deukmejian (R)	YYYN	NNNY	NNNN	Roberti (D)	YNYY	NYYY	YYYY
Dills (D)	NNYN	NNNY	YNY*	Rodda (D)	NYYN	Y*YN	*Y*N
Dunlap (D)	NYY*	YYYN	YYNY	Russell (R)	YYNN	NNNN	NNNY
Foran (D)	YYYN	NYNN	YYY*	Sieroty (D)	NNNN	YNYY	YYYY
Garamendi (D)	NYYY	YNNN	YNNY	Smith (D)	NYYY	YNYY	*Y*Y
Garcia (D)	YNYN	**YY	*YY*	Song (D)	****	***Y	Y***
Greene (D)	**N*	N*Y*	YYYY	Stiern (D)	YNNN	YNYY	N*YY
Gregorio (D)	NYNY	YYYN	YYNY	Stull (R)	YYY*	NNNN	NNY*
Holden (D)	**NN	YNYY	YYY*	Vuich (D)	*YYN	YNNY	YNYY
Holmdahl (D)	NYYN	YYYY	YYY*	Wilson (D)	Y**N	YNNY	YYYY
Johnson (R)	YYYN	NNNN	NNYY	Zenovich (D)	NNNN	NNYN	YNYN

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through mid-July. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes **N - No**
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

Senate

BUDGET AND FINANCE

SB 1355 (Rodda) — Senate budget bill. Senate vote on whether to remove Medi-Cal abortion funds from the budget. Amendment to remove funds adopted 19-16.

SB 2230 (Deukmejian) — Would extend the deadline until August 15th for the placement of a spending-limitation constitutional amendment on the November ballot. Passed 28-7.

AB 2190 (Boatwright) — Appropriates $15.1 billion for support of state government. Senate adopts conference report, 27-10.

HEALTH AND WELFARE

SB 1789 (Campbell) — Repeals prohibition against the prescription of Laetrile for the treatment of cancer. Defeated 9-25.

AB 1222 (Vasconcellos) — Prohibits smoking in grocery stores and retail food-production establishments. Failed 18-16 (21 votes required).

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MISCELLANEOUS

ACA 55 (Papan) — Proposed constitutional amendment to lower the drinking age from 21 to 19. Failed 8-22.

SB 2143 (Sieroty) — Prohibits person who purchases a work of fine art from altering or defacing it. Passed 21-17.

SB 1781 (Robbins) — Prohibits wearing of Nazi uniform in public place where disturbance is likely to result. Passed 21-15.

SB 2005 (Dunlap) — Requires the University of California and the state-college system to disclose admission criteria to prospective students. Passed 21-14.

SB 1480 (Nejedly) — Restricts killing of predatory animals. Passed 21-16.

AB 1073 (Ellis) — Exempts many public officials from jury service. Passed 21-11.

AB 1941 (Miller) — Eliminates automatic pay raises for judges. Senate rejects conference report 19-7.

Assembly

BUDGET AND FINANCE

AB 2190 (Boatwright) — Assembly budget bill. Assembly vote against restriction of abortion funds. Motion passed 38-37. (A "yes" vote is against restricting abortion funds.)

AB 2190 Boatwright) — Appropriates $15.1 billion for support of state government. Assembly adopts conference report 70-10.

SB 2212 (Gregorio) — Prohibits salary increases for local official for the current fiscal year; general Proposition 13 "cleanup bill." Passed 61-16.

BUSINESS

AB 3627 (Lehman) — Prohibits nonresident aliens from buying California agricultural land. Passed 41-37.

AB 3289 (Gorgin) — Requires electrical utilities to plan regular sharing of generating capacity. Passed 41-36.

SCA 53 (Alquist) Proposed constitutional amendment authorizing the Senate rules committee to make Public Utilities Commission appointments if the governor fails to do so. Defeated 31-39.

MISCELLANEOUS

AB 3249 (Torres) — Requires firms using toxic substances to notify employees of possible side effects. Passed 45-29.

AB 3265 (Keene) — Establishes $450 million bond program to provide construction loans for non-profit health facilities.

AB 3299 (Rosenthal) — Increases penalties for hospitals expanding services or facilities without state approval. Passed 41-29.

ACA 74 (Gage) — Proposed constitutional amendment to allow the use of inmate labor in private enterprise. Passed 54-20.

AB 3501 (Gage) — Implements part of the Governor's urban strategy by requiring local government to adhere to specified planning policies. Defeated 26-46.

ACA 41 (Cline) — Proposed constitutional amendment legalizing the establishment of a state lottery. Defeated 29-42.

Assembly (57D, 23R)	AB 2190	AB 2190	SB 2212	AB 3627	AB 3289	SCA 53	AB 3249	AB 3265	AB 3299	ACA 74	AB 3501	ACA 41
Agnos (D)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Alatorre (D)	Y	Y	Y	Y	Y	N	Y	Y	*	Y	Y	N
Antonovich (R)	N	N	N	N	N	Y	N	N	N	Y	N	N
Arnett (R)	Y	Y	N	N	Y	N	Y	*	N	Y	N	N
Bane (D)	*	Y	Y	Y	Y	N	*	*	Y	N	*	*
Bannai (R)	N	Y	N	N	N	Y	N	N	N	Y	N	N
Bates (D)	Y	N	Y	Y	N	Y	Y	*	Y	*	Y	N
Berman (D)	Y	Y	Y	Y	Y	N	Y	*	Y	Y	*	N
Boatwright (D)	*	Y	Y	Y	*	N	N	N	Y	Y	*	N
Brown (D)	Y	Y	*	Y	*	Y	Y	Y	Y	Y	*	N
Calvo (D)	Y	Y	Y	*	Y	N	Y	N	Y	Y	N	N
Chacon (D)	N	Y	Y	N	*	Y	N	*	N	Y	*	N
Chappie (R)	N	Y	N	N	N	N	N	N	N	Y	*	N
Chel (D)	N	Y	Y	*	N	N	N	Y	N	Y	*	N
Chimbole (D)	N	Y	Y	Y	N	N	N	N	Y	N	Y	Y
Cline (R)	N	Y	Y	N	Y	N	Y	Y	N	Y	N	N
Collier (R)	N	Y	*	Y	N	N	Y	N	N	Y	N	N
Cordova (D)	Y	N	Y	Y	N	N	N	N	Y	N	Y	N
Craven (R)	N	Y	N	N	Y	N	Y	N	N	Y	N	N
Cullen (D)	Y	Y	N	*	Y	Y	Y	N	Y	Y	Y	Y
Dannemeyer (R)	N	N	Y	N	N	Y	N	N	Y	N	N	N
Deddeh (D)	N	Y	Y	N	N	N	N	N	N	Y	Y	N
Dixon (D)	Y	Y	N	Y	*	N	Y	*	Y	N	Y	N
Duffy (R)	N	Y	N	*	N	Y	N	N	N	Y	Y	N
Egeland (D)	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N
Ellis (R)	N	Y	N	N	N	Y	N	N	N	Y	N	N
Fazio (D)	Y	Y	Y	Y	Y	N	Y	N	*	N	*	N
Fenton (D)	N	Y	Y	N	Y	N	Y	N	Y	N	Y	N
Gage (D)	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y	N
Goggin (D)	N	Y	Y	Y	Y	N	N	N	Y	N	*	N
Greene (D)	*	Y	Y	*	*	Y	N	N	Y	N	N	N
Gualco (D)	Y	Y	Y	N	Y	N	Y	N	Y	N	Y	N
Hallett (R)	Y	Y	N	N	N	Y	N	N	N	Y	*	N
Hart (D)	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N
Hayden (R)	N	N	Y	*	Y	N	N	N	Y	N	Y	N
Hughes (D)	Y	Y	Y	N	Y	N	*	Y	N	*	Y	N
Imbrecht (R)	N	N	Y	N	Y	N	N	N	Y	N	N	N
Ingalls (D)	Y	Y	Y	N	N	Y	N	N	N	Y	N	N
Kapiloff (D)	Y	Y	Y	N	Y	*	Y	Y	Y	N	Y	N
Keene (D)	Y	N	Y	Y	Y	N	Y	Y	N	Y	Y	N
Keysor (D)	N	Y	Y	N	Y	N	Y	N	Y	Y	Y	N
Knox (D)	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Lancaster (R)	N	Y	Y	N	N	Y	N	Y	*	Y	N	N
Lanterman (R)	Y	Y	Y	Y	N	Y	N	Y	N	N	N	N
Lehman (D)	Y	Y	Y	Y	Y	N	N	N	Y	N	N	N
Levine (D)	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N
Lewis (R)	N	N	N	N	N	Y	N	N	N	Y	N	N
Lockyer (D)	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y	N
Maddy (R)	N	Y	N	N	N	Y	N	N	N	Y	N	N
Mangers (D)	Y	Y	Y	Y	*	N	*	Y	N	*	*	N
McAlister (D)	N	Y	Y	N	Y	N	Y	Y	Y	N	N	N
McCarthy (D)	*	Y	Y	Y	*	Y	Y	Y	*	Y	Y	N
McVittie (D)	N	Y	N	N	N	N	Y	N	*	N	N	N
Mello (D)	Y	Y	Y	N	*	N	Y	*	*	N	N	N
Miller (D)	Y	Y	Y	N	Y	N	Y	N	Y	Y	Y	N
Montoya (D)	N	Y	Y	N	Y	N	*	*	Y	N	Y	N
Mori (D)	N	Y	Y	N	Y	N	Y	*	Y	N	Y	N
Nestande (R)	N	Y	*	N	N	Y	N	N	N	Y	N	N
Papan (D)	*	Y	Y	N	N	Y	N	Y	N	Y	N	N
Perino (D)	N	Y	Y	N	N	Y	N	Y	N	Y	Y	N
Priolo (R)	N	Y	*	N	N	Y	*	N	Y	N	N	N
Robinson (D)	Y	Y	Y	N	N	Y	N	Y	Y	N	Y	N
Roos (D)	Y	Y	Y	N	Y	N	Y	*	Y	N	Y	N
Rosenthal (D)	Y	Y	Y	N	Y	N	Y	N	Y	N	Y	N
Ryan (R)	Y	N	N	N	N	Y	N	N	N	Y	N	N
Statham (R)	Y	Y	N	N	Y	N	Y	N	N	Y	N	N
Stirling (R)	N	Y	N	N	*	N	*	N	N	Y	N	N
Suitt (D)	N	Y	Y	N	Y	N	N	N	Y	N	N	N
Thomas, V. (D)	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N
Thomas, W. (R)	N	Y	Y	N	*	N	N	*	N	N	*	N
Thurman (D)	N	Y	Y	N	Y	N	Y	N	N	Y	N	N
Torres (D)	Y	Y	Y	N	Y	N	Y	N	Y	*	Y	N
Tucker (D)	Y	Y	N	N	N	Y	N	N	*	N	N	N
Vasconcellos (D)	N	Y	Y	N	Y	N	Y	N	Y	Y	Y	N
Vicencia (D)	N	Y	Y	N	*	Y	Y	N	Y	N	Y	N
Waters, M. (D)	Y	Y	Y	N	Y	N	Y	N	Y	N	Y	N
Waters, N. (D)	Y	Y	N	N	Y	N	Y	N	N	Y	N	N
Wornum (D)	Y	Y	Y	N	N	Y	N	N	*	N	Y	N
Wray (D)	N	Y	Y	N	Y	N	Y	N	Y	*	*	*
Young (D)	N	Y	Y	N	Y	N	*	Y	Y	*	Y	N

Selected Government Reports

Affirmative Action Versus Seniority — Is Conflict Inevitable? by Bonnie G. Cebulski, for the Institute of Industrial Relations, U.C. Berkeley. 52 pp. Available from the Institute, U. C. Berkeley, CA 94720. ($5)

Social Welfare in the 1980s and Beyond, by Professor Eveline M. Burns of Columbia University, for the Institute of Governmental Studies, U.C. Berkeley. 20 pp. Order from the Institute, 109 Moses Hall, U.C. Berkeley, CA 94720.

A Microcosm of Events: Inside California State Bureaucracy, by Harold E. Simmons, published by The Citadel Press, Inc. 113 pp. Order from General Welfare Publications, PO Box 19098, Sacramento, CA 95819. ($3.95 plus tax)

California Water: A New Political Economy, by Merrill R. Goodall, John D. Sullivan and Timothy De Young; published by Allenheld, Osmun & Co. Analysis of various political systems and their fiscal impact in more than 1,000 of the state's water districts. 128 pp. Order from Universe Books, 381 Park Ave. So., New York, N.Y. 10016. ($18)

Prop. 13 Impact Reporter, a new bi-weekly by California Research, providing in-depth and up-to-the-minute information and analyses on Proposition 13 as it is implemented in various jurisdictions. For subscription rates contact Director of Publications, California Research, Suite 300, 1024 Tenth St., Sacramento, CA 95814, or call (916) 444-0676.

The Prospect for Presidential-Congressional Government, edited by Albert Lepawsky, for Institute of Governmental Studies, U.C.Berkeley. Five chapters, by five different authors, on how the power pendulum swings in Washington. 110 pp. Available from the Institute, 109 Moses Hall, U.C. Berkeley,CA. 94720. ($6)

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CHARTING THE LEGISLATURE

The following is a selection of significant bills pending before the legislature:

SUBJECT	BILLS	DESCRIPTION	STATUS
BAIL	SCA 62 (Richardson)	Proposed constitutional amendment requiring that the public safety be of paramount concern in the consideration of bail for an accused sex offender.	*Passed Senate. In Assembly Criminal Justice Committee.*
BUDGET BILL	AB 2190 (Boatwright)	Appropriates $14.7 billion for the support of state government for the 1978 - 79 fiscal year.	*Signed by Governor.*
CRIMINAL JUSTICE	AB 90 (Dixon).	Appropriates $55 million to counties for 1978 - 79 to replace probation subsidy and other categorical state funds for juvenile justice systems.	*On Governor's desk.*
	AB 2632 (Gualco)	Gives the Community Release Board an additional six months to set parole dates for prisoners.	*Signed by Governor.*
GOVERNMENT SPENDING	SCA 42/SB 2230 (Deukmejian) ACA 94 (Cordova)	SCA 42 would impose limits on government spending for future fiscal years. SB 2230 extends deadline for qualifying ballot measures to allow SCA 42 to appear on the November ballot. ACA 94 would establish limits on the amount of revenues which state or local governments could derive from the imposition of taxes.	*SCA 42 is scheduled for hearing in the Assembly Revenue and Taxation Committee August 7th. SB 2230 is on the Governor's desk. ACA 94 is in the Assembly Revenue and Taxation Committee.*
HEALTH FACILITIES	SB 1881-1882 (Gregorio) AB 3418-3421 (Torres) AB 3298, 3299, 3302 (Rosenthal)	The Gregorio and Rosenthal measures revise certificate-of-need requirements for the construction or expansion of health facilities. AB 3418-3421 impose financial disclosure requirements on hospitals, require review of hospital budgets and accounting procedures, and require hospitals to develop quality assurance programs for all patients.	*SB 1881-1882 are in the Assembly Health Committee. AB 3419, 3420, 3421, 3298, 3299 and 3302 are in the Senate Health and Welfare Committee. AB 3418 is on the Assembly inactive file.*
JARVIS-GANN	SB 2212 (Gregorio)	Prohibits salary increases for elected or appointed local public officials for the 1978 - 79 fiscal year, appropriates an additional $37 million in state funds to finance special districts as a result of the Jarvis-Gann property tax limitation, and clarifies change-of-ownership provisions in Proposition 13 for purposes of property reassessments.	*Signed by Governor.*
PROPERTY TAXES	SCA 66/SCA 70 (Dills) AB 2986 (Bates)	Would limit the Jarvis-Gann property tax reduction to residential property. Requires apartment owners receiving property tax reductions from Proposition 13 to give renters reductions in their monthly rent payments.	*SCA 66 and AB 2986 are set for hearing August 9th in the Senate Revenue and Taxation Committee. SCA 70 is pending in the same committee.*
PUBLIC EMPLOYEES	SB 1471 (Greene)	Would postpone immediate layoffs of public employees who are losing their jobs as a result of Proposition 13 by authorizing a combination of work-sharing and unemployment-insurance plans.	*Signed by Governor.*
SALARIES	AB 2606 (Mangers) SB 2244/SCA 71 (Dunlap) AB 1941 (Miller)	The Mangers and Dunlap bills would cancel legislators' salary increase. Miller's proposal would freeze judges' salaries for the 1978 - 79 fiscal year.	*AB 2606 is in the Senate Rules Committee. SB 2244 and SCA 71 were introduced July 5th and have not yet been assigned to committee. AB 1941 was defeated twice by the Senate.*
TELEPHONE COMPANIES	AB 43 (Robinson)	Cancels repeal date of 1976 law prohibiting telephone companies from charging customers for directory-assistance calls.	*Passed Assembly. Senate Public Utilities, Transit and Energy Committee hearing August 15th.*

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By Leo Rennert

The best Congress money can buy

While Congress reverberated with cries of outrage at U.N. Ambassador Andrew Young's remark about "political prisoners" in American jails, the House of Representatives prepared to conduct a political trial of its own. Four Democratic lawmakers, including three Californians, have been charged with misconduct in the South Korean influence-buying scandal. The Ethics Committee, which drafted the accusations, now must recommend verdicts to the full House. Options range from dismissal of the allegations or a slight reprimand to censure and expulsion.

THE ACCUSED CALIFORNIANS are John McFall, Charles Wilson and Ed Roybal. The fourth "defendant" is Edward Patten of New Jersey. The accusations stem from their relations with millionaire rice dealer Tongsun Park, who lavished gifts and parties on congressmen in the days before Watergate turned Washington into a dull town.

McFall could suffer a triple blow. Two years ago, when he was majority whip, revelations that he accepted cash from Park torpedoed his bid to become majority leader. Now, he faces the grim prospect of perhaps being branded unethical by his peers. Such a rebuke could prove costly, even fatal, at the polls in November. Wilson and Roybal also are poised for unpleasant re-election campaigns.

Members of the California delegation, who saw former Congressman Richard Hanna go to jail as a prime mover in Park's business-and-politics machinations, now will have to submerge long-standing friendships with three current colleagues so they can render supposedly objective verdicts when the proceedings reach the floor.

The charges brought by the Ethics Committee are not exactly the stuff that goes into making great international mystery thrillers. No spicy Mata-Hari sex angles, no web of clandestine intrigue, not even a classic quid-pro-quo bribery scenario. After having been billed as Watergate Two, Koreagate is winding up as a third-rate show with a cast of undistinguished support players. It's more Rosencrantz and Guildenstern than Hamlet.

McFall is charged with having failed to report a $3,000 campaign contribution from Park, converting the cash to personal use, and accepting a $500 tea set and another $1,000 under questionable circumstances. The Manteca congressman says he did nothing wrong, that he didn't have to report the money because he put it into his office account. The tea set hasn't been used because his wife didn't like it. Wilson is accused of having tried to cover up a $1,000 wedding gift from Park. The Hawthorne lawmaker says he simply forgot about it and, once he remembered, told investigators everything. Roybal was cited for not reporting a $1,000 contribution he received from Park in the office of former Congressman Otto Passman of Louisiana, who has been indicted in the case. The Los Angeles congressman says he did report the money, but didn't list Park's name because he never learned the identity of the donor. Patten stands accused of making it appear that he was the source of two $500 contributions to a New Jersey Democratic group, when Park was the actual benefactor. Patten also denies any wrongdoing.

Although the Ethics Committee is going to great pains to demonstrate that it will conduct an "adjudicatory" proceeding, hardly anyone on Capitol Hill really believes that. A steady diet of Koreagate exposés by the *Washington Post* and other media, which promised a far more sensational scandal than federal investigators were able to unearth, finally forced the House to undertake this rather sluggish and pathetic cleansing operation. Democrats, particularly younger members, have been pressing for some semblance of resolute prosecution of wrongdoers to prevent cover-up charges by Republican opponents. If some colleagues have to be sacrificed to improve the image of the House, so be it. While the Ethics Committee struggles to give an appearance of judicial impartiality, lynch-mob pressures in Capitol cloakrooms are never far away.

By clearing House Speaker Thomas P. O'Neill Jr., and Majority Whip John Brademas, who also were notable recipients of Park's bounteous generosity, the committee further raised suspicions that it is engaged in an exercise of selective justice. It is not only the "defendants" who are crying foul and charging that the committee zeroed in on "little fish" while letting the "big fish" slip through its net; many of their colleagues privately agree. The old tribal instinct to appease angry gods with human sacrifice lurks just below the surface. Confidence also is not raised by vague and loosely worded charges, as in McFall's case, that he accepted favors from Park "under circumstances which might be construed by reasonable persons as influencing the performance of his government duties."

But perhaps the biggest disservice rendered by the Ethics Committee's probe is that it has diverted public attention from a real first-class scandal on Capitol Hill — the massive infusion of special-interest money into virtually all congressional campaigns. By focusing the spotlight on the few thousand dollars Park parceled out and by treating the entire affair as an isolated incident, the House has managed to block and defer real reforms that might clip the wings of thousands of lobbyists who regularly get a piece of the legislative action thanks to hefty campaign contributions.

THE KOREAN AFFAIR might deserve sterner treatment if it could be proved conclusively that Park was a direct agent of the Seoul government. But even the Ethics Committee, which accepted this premise, had to acknowledge that lawmakers who took Park's gifts had no way of knowing that he was anything other than an ambitious entrepreneur. As such, how does he really differ from all the other influence-seekers who march up Capitol Hill every day?

Common Cause estimates that $100 million in private contributions were funneled into the 1976 congressional races and the 1978 total will set a new record. That's quite a bit more money than Park played around with. "It's a $100 million scandal," says Fred Wertheimer, senior vice president of Common Cause. "As long as House members keep running away from public financing of campaigns, they're running away from the basic issue. In that sense, there's no question that the Korean probe has diverted attention from the real target."

When he appeared before the Ethics Committee, Park described himself as a perfect illusion of the American "success story." As long as this remains the best Congress money can buy, he deserves a medal for truthfulness.

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The classroom combination

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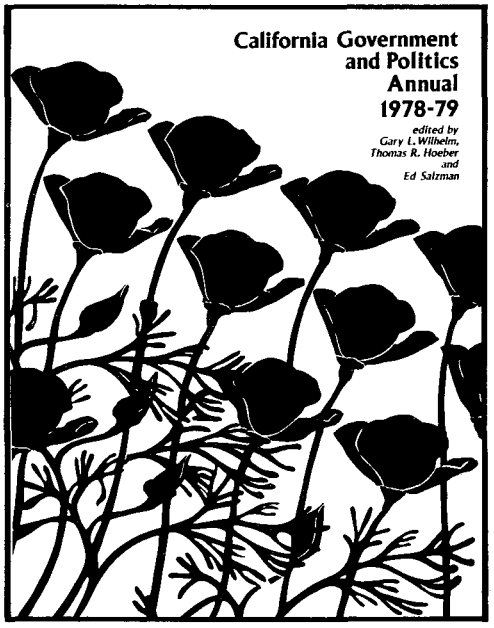

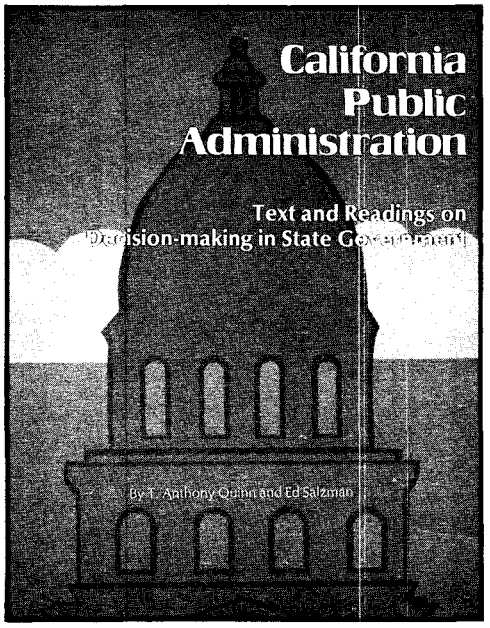

This year, for the first time, the *California Journal Press* has two books designed primarily for college classroom use — the 128-page **California Government and Politics Annual 1978-79** and the 120-page **California Public Administration.**

The **Annual,** published every year by the *California Journal Press,* consists of reprints of *California Journal* articles covering the various branches of government, elections, political reform, lobbying, taxation, local government, the environment, business, health and welfare. There are three new sections this year — on the initiative and recall, on energy, and on women and minorities. The book also includes a "Practical Guide to California Government and Politics."

California Public Administration describes the inner workings of state government — how decisions are made in all branches of state government, with special emphasis on administrative agencies. Reprints of a few *Journal* articles are also included, but the bulk of the book consists of previously unpublished material.

The tax-included prices are $3.71 for the **Annual** and $5.25 for **California Public Administration.** Although these books are designed primarily for student use, they can be useful tools for anyone seeking to understand how state government works.

Send orders to the *California Journal Press,* 1617 10th St., Sacramento 95814. Standard textbook discounts are available to bookstores.

Change is not accomplished by peeling off superficial layers when the causes are rooted deeply in the heart of the organism.

— Martin Luther King

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